



भारत का राजपत्र

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सं. 19] नई दिल्ली, मई 4—मई 10, 2008, शनिवार/वैशाख 14—वैशाख 20, 1930
No. 19] NEW DELHI, MAY 4—MAY 10, 2008, SATURDAY/VAISAKHA 14—VAISAKHA 20, 1930

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पुस्तक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सचिबिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

नई दिल्ली, 23 अप्रैल, 2008

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 23rd April, 2008.

का.आ. 977.—केन्द्रीय सरकार, दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री हितेन्द्र जादवजी देधिया अधिवक्ता को, मुम्बई उच्च न्यायालय में भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय द्वारा या उसके विरुद्ध सभी दंडिक मामलों का जिसके अंतर्गत सभी दंडिक रिट याचिकाएं, दंडिक अपीलें, दंडिक पुनरीक्षण, दंडिक निर्देश और दंडिक आवेदन भी हैं, संचालन करने के प्रयोजन के लिए इस शर्त के अधीन रहते हुए कि श्री हितेन्द्र जादवजी देधिया अपर लोक अभियोजक के रूप में अपनी नियुक्ति की अवधि के दौरान भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय के विरुद्ध ऊपर निर्दिष्ट किसी दंडिक मामले में मुम्बई उच्च न्यायालय में उपस्थित नहीं होंगे, इस अधिसूचना के प्रकाशन की तारीख से दो वर्ष की अवधि के लिए या अगले आदेश होने तक, इनमें से जो भी पूर्वतः हो, अपर लोक अभियोजक के रूप में नियुक्त करती है।

S.O. 977.—In exercise of the powers conferred by sub-section (1) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints of Shri Hitendra Jadavji Dedhia, Advocate as Additional Public Prosecutor for the purpose of conducting all criminal cases including criminal writ petitions, criminal appeals, criminal revisions, criminal references and criminal applications by or against the Union of India or any Department or Office of the Central Government, in the High Court of Judicature at Mumbai, with effect from the date of publication of this notification in the Official Gazette, for a period of two year or until further orders, whichever is earlier, subject to the condition that Shri Hitendra Jadavji Dedhia, Advocate shall not appear against the Union of India or any Department or Office of the Central Government in any criminal case referred to above in the High Court of Judicature at Mumbai during the period of his appointment.

[सं. फा. 23(2)/2008—न्यायिक]

एम. ए. खान यूसुफी, संयुक्त सचिव और सरकारी काउंसिलर

126 GI/2008

(2099)

[F. No. 23(2)/2008—Jud.]

M. A. KHAN YUSUFI, Jt. Secy & GC

नई दिल्ली, 23 अप्रैल, 2008

का.आ. 978.—केन्द्रीय सरकार, दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्रीमती रुतुजा अनिल अंबेडकर, अधिवक्ता को, मुम्बई उच्च न्यायालय में भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय द्वारा या उसके विरुद्ध सभी दण्डिक मामलों का जिनके अंतर्गत दण्डिक रिट याचिकाएँ, दण्डिक अपीलें, दण्डिक पुनरीक्षण, दण्डिक निर्देश और दण्डिक आवेदन भी हैं, संचालन करने के प्रयोजन के लिए इस शर्त के अधीन रहते हुए कि श्रीमती रुतुजा अनिल अंबेडकर अपर लोक अभियोजक के रूप में अपनी नियुक्ति की अवधि के दौरान भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय के विरुद्ध ऊपर निर्देशित किसी दण्डिक मामले में मुम्बई उच्च न्यायालय में उपसंज्ञा नहीं होंगी, राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से दो वर्ष की अवधि के लिए या अगले आदेश तक, इनमें से जो भी पूर्वतर हो, अपर लोक अभियोजक के रूप में नियुक्त करती है।

[सं. एफ. 23(2)/2008-न्यायिक]

एम. ए. खान यूसुफी, संयुक्त सचिव और सरकारी काउंसिल

New Delhi, the 23rd April, 2008

S.O. 978.—In exercise of the powers conferred by sub-section (1) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints of Mrs. Rutuja Anil Ambedkar, Advocate as Additional Public Prosecutor for the purpose of conducting all criminal cases including criminal writ petitions, criminal appeals, criminal revisions, criminal references and criminal applications by or against the Union of India or any Department or Office of the Central Government, in the High Court of Judicature at Mumbai, with effect from the date of publication of this notification in the Official Gazette, for a period of two year or until further orders, whichever is earlier, subject to the condition that Mrs. Rutuja Anil Ambedkar, Advocate shall not appear against the Union of India or any Department or Office of the Central Government in any criminal case referred to above in the High Court of Judicature at Mumbai during the period of her appointment.

[F. No. 23(2)/2008-Judl.]

M.A. KHANYUSUFI, Jt. Secy. & GC

कार्यालय, मुख्य आयकर आयुक्त

जोधपुर, 21 अप्रैल, 2008

सं. 1/2008-09

का.आ. 979.—आयकर नियम, 1962 के नियम 2 सी के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वाँ) की धारा

10 के खण्ड (23 सी) की उप-धारा (4) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जोधपुर एतद्वारा निर्धारण वर्ष 2005-2006 एवं आगे के लिए कथित धारा के उद्देश्य से "श्री जैन श्वेताम्बर नाकोड़ा पार्श्वनाथ तीर्थ, मेधानगर (नाकोड़ा), जिला बाड़मेर (राज.)" को स्वीकृति देते हैं।

बशर्ते कि समिति आयकर नियम, 1962 के नियम 2 सी के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उप-धारा (4) के प्रावधानों कि अनुरूप कार्य करें।

[क्र. मुआआ/आअ(तक)/जो/10 (23 सी)/2008-2009/228]

बी. एस. दिल्ली, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX

Jodhpur, the 21st April, 2008

No. 1/2008-09

S.O. 979.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with Rule 2CA of the Income-tax Rules, 1962, the Chief Commissioner of Income-tax, Jodhpur, hereby approves "Shri Jain Shwetamber Nakoda Pershnath Tirth, Mewanagar (Nakoda), Distt. Barmer. (Rajasthan)" for the purpose of the said section for the assessment years 2005-06 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (iv) of clause (23C) of section 10 of Income-tax Act, 1961 read with rule 2C of the Income-tax rules, 1962.

[No. CCIT/ITO(Tech)/Ju/10(23C)/2008-2009/228]

B. S. DHILLON, Chief Commissioner of Income-Tax

कार्यालय, मुख्य आयकर आयुक्त

जयपुर, 29 अप्रैल, 2008

सं. 5/2008-09

का.आ. 980.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वाँ) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2004-2005 एवं आगे के लिए कथित धारा के उद्देश्य से "महाराज विनायक सोसायटी, जयपुर" को स्वीकृति देते हैं।

बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उप-खण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करें।

[क्र. मुआआ/अआआ/(समन्वय)/जय/10(23सी)(vi)/08-09/353]

एस. सी. कपिल, मुख्य आयकर आयुक्त

**OFFICE OF THE CHIEF COMMISSIONER OF
INCOME-TAX**

Jaipur, the 29th April, 2008

No. 5/2008-09

S.O. 980.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Maharaj Vinayak Society, Jaipur" for the purpose of said Section for the A. Y. 2004-05 and onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl. CIT (Coord.)/10(23C)(vi)/2008-09/353]

S. C. KAPIL, Chief Commissioner of Income Tax

जयपुर, 29 अप्रैल, 2008

सं. 6/2008-09

का.आ. 981.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वा) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2007-2008 एवं आगे के लिए कथित धारा के उद्देश्य से "इंडियन मेडिकल ट्रस्ट, जयपुर" को स्वीकृति देते हैं।

बशर्ते कि संपत्ति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) और (via) के प्रावधानों के अनुरूप कार्य करे।

[क्र. मुआआ/अआआ/(समन्वय)/जय/10(23सी)(vi) & (via)/08-09/376]

एस. सी. कपिल, मुख्य आयकर आयुक्त

Jaipur, the 29th April, 2008

No. 6/2008-09

S.O. 981.—In exercise of the powers conferred by sub-clause (vi) & (via) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Indian Medical Trust, Jaipur" for the purpose of said Section for the A. Y. 2007-08 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) & (via) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl. CIT (Coord.)/10(23C)(vi) & (via)/2008-09/376]

S. C. KAPIL, Chief Commissioner of Income Tax

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 29 अप्रैल, 2008

का.आ. 982.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में राजस्व विभाग के अधीन केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क बोर्ड के निम्नलिखित कार्यालय को जिनके 80 प्रतिशत कर्मचारी वृद्ध ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

सीमा शुल्क आयुक्त (निर्यात/आयात का कार्यालय)

जवाहर लाल नेहरू सीमा शुल्क भवन,

न्हावा शेवा,

पोस्ट उरण, जिला रायगड, महाराष्ट्र-400707

[फा. सं. 11012/1/2008-हिन्दी-2]

मधु शर्मा, निदेशक (रा.भा.)

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 29th April, 2008

S.O. 982.—In pursuance of Sub Rule 4 of rule 10 of the Official Language (use of official purpose of the union) Rules 1976 the Central Government hereby notifies the following office under the Central Board of Excise and Customs, Department of Revenue, the 80% staff where of have acquired the working knowledge of Hindi;

Commissionerate Custom (Export/Import)

Jawahar Lal Nehru Seema Shulk Bhawan,

Navhasheva,

Post-Uran, Distt. Raigad, Maharashtra-400707

[F.No. 11012/1/2008-Hindi-2]

MADHU SHARMA, Director (OL)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 30 अप्रैल, 2008

का.आ. 983.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग तथा 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खण्ड (ii) के प्रयोजनार्थ दिनांक 1-4-2004 से संगठन डाबर रिसर्च फाउंडेशन, नई दिल्ली को निम्नलिखित शर्तों के अधीन "वैज्ञानिक अनुसंधान संघ" की श्रेणी में अनुमोदित किया गया है अर्थात् :-

- (i) अनुमोदित "वैज्ञानिक अनुसंधान संघ" का एक मात्र उद्देश्य वैज्ञानिक अनुसंधान करना होगा;
- (ii) अनुमोदित संगठन स्वयं वैज्ञानिक अनुसंधान कार्य-कलाप जारी रखेगा;
- (iii) अनुमोदित संगठन बही-खाता रखेगा तथा उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने

की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।

- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त दान एवं प्रयुक्त राशि का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य कलाप करना बंद कर देगा अथवा इसके अनुसंधान कार्य कलाप को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5घ के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खण्ड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 59/2008/फा. सं. 203/27/2006-आ.क.नि.-II]

सुरेन्द्र पाल, अपर सचिव

(Central Board of Direct Taxes)

New Delhi, the 30th April, 2008

S.O. 983.—It is hereby notified for general information that the organization Dabur Research Foundation, New Delhi has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with rules 5C and 5D of the Income-tax Rules, 1962 (said Rules) with effect from 1-4-2004 in the category of 'scientific research association' subject to the following conditions, namely:

- (i) The sole objective of the approved 'scientific research association' shall be to undertake scientific research;
- (ii) The approved organization shall carry on the

scientific research activity by itself;

- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:-

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of donations received and amounts applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5 C and 5D of the said Rules.

[Notification No. 59/2008/F.No. 203/27/2006/ITA-II]

SURENDER PAL, Under Secy.

नई दिल्ली, 30 अप्रैल, 2008

क्र.आ. 984.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग तथा 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खण्ड (ii) के प्रयोजनार्थ दिनांक 1-4-2006 से संगठन राजीव गांधी फाउंडेशन, जवाहर भवन, डॉ. राजन्द्र प्रसाद, रोड, नई दिल्ली को निम्नलिखित शर्तों के अधीन आंशिक रूप से

अनुसंधान कार्यकलापों में लगी 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, नामतः :-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा,
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा इसके नामित विद्यार्थियों के मामले में वैज्ञानिक अनुसंधान कार्य-कलाप जारी रखेगा;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान में अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग खाता बही रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।
- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान में अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त दान एवं प्रयुक्त राशि का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य कलाप करना बंद कर देगा अथवा इसके अनुसंधान कार्य कलाप को आवश्यक नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खण्ड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 57/2008/फा. सं. 203/50/2008-आ.क.नि.-II]

सुरेन्द्र पास, अवर सचिव

New Delhi, the 30th April, 2008

S.O. 984.—It is hereby notified for general information that the organization Rajiv Gandhi Foundation, Jawahar Bhawan, Dr. Rajendra Prasad Road, New Delhi, has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-2006 in the category of 'other Institution', partly engaged in research activities subject to the following conditions, namely:

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:

- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in subparagraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section

35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 57/2008/F.No. 203/50/2008/ITA-11]

SURENDER PAL, Under Secy.

नई दिल्ली, 30 अप्रैल, 2008

का.आ. 985.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग तथा 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खण्ड (iii) के प्रयोजनार्थ दिनांक 1-4-2006 से संगठन राजीव गांधी फाउंडेशन, जवाहर भवन, डॉ. राजेन्द्र प्रसाद, रोड, नई दिल्ली को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगी 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, नामतः—

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग सामाजिक विज्ञान में अनुसंधान के लिए किया जाएगा,
 - (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से सामाजिक विज्ञान में अनुसंधान अथवा सांख्यिकीय अनुसंधान करेगा;
 - (iii) अनुमोदित संगठन सामाजिक विज्ञान में अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग खाता बही रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।
 - (iv) अनुमोदित संगठन सामाजिक विज्ञान में अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा।
2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :
- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित पृथक लेखा बही नहीं रखेगा; अथवा
 - (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
 - (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित सामाजिक विज्ञान में अनुसंधान अथवा सांख्यिकीय अनुसंधान के

लिए प्राप्त एवं प्रयुक्त दान राशि का अपना विवरण प्रस्तुत नहीं करेगा; अथवा

- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5घ के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खण्ड (iii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 58/2008/फा. सं. 203/50/2008—आ.क.नि.—II]

सुरेन्द्र पाल, अवर सचिव

New Delhi, the 30th April, 2008

S.O. 985.—It is hereby notified for general information that the organization Rajiv Gandhi Foundation, Jawahar Bhawan, Dr. Rajendra Prasad Road, New Delhi, has been approved by the Central Government for the purpose of clause (iii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with rules 5C and 5E of the Income-tax Rules, 1962 (said Rules) with effect from 1-4-2006 in the category of 'other Institution' partly engaged in research activities subject to the following conditions, namely :—

- (i) The sums paid to the approved organization shall be utilized for research in social sciences;
 - (ii) The approved organization shall carry out research in social science or statistical research through its faculty members or its enrolled students;
 - (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
 - (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for research in social sciences and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.
3. The Central Government shall withdraw the approval if the approved organization :
- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or

- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for research in social sciences or statistical research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (iii) of sub-section (1) of section 35 of the said Act, read with rules 5C and 5E of the said Rules.

[Notification No. 58/2008/F.No. 203/50/2008/ITA-II]

SURENDER PAL, Under Secy.

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 2 मई, 2008

का.आ. 986.—इस विभाग की 26 दिसम्बर, 2005 की अधिसूचना सं. 9/12/2004-बीओ-1 के अनुसार में, और राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) योजना, 1970/1980 के खण्ड 3 के उप-खण्ड (1), खण्ड 5, 6 और 7 और खण्ड 8 के उप-खण्ड (1) के साथ पठित बैंककारी कम्पनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सक्षम प्राधिकारी ने श्री आर.पी. सिंह, भारतीय प्रशासनिक सेवा (आ.प्र. 76) के पंजाब एंड सिंध बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में कार्यकाल में विस्तार को 27 फरवरी, 2009 तक अथवा अगले आदेश होने तक, जो भी पहले हो, मंजूरी प्रदान की है।

[फा. सं. 20/4/2005-बी ओ-1]

जी. बी. सिंह, उप-सचिव

(Department of Financial Services)

New Delhi, the 2nd May, 2008

S.O. 986.—In continuation of this Department's notification No. 9/12/2004-BO.1 dated 26th December 2005, and in exercise of the powers conferred by clause (a) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, clause 5, clause 6, clause 7 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the competent authority has approved extension in the tenure of Shri R.P. Singh, IAS (AP:76), as Chairman and Managing Director, Punjab & Sind Bank upto 27th February 2009 or until further orders, whichever is earlier.

[F.No. 20/4/2005-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 7 मई, 2008

का.आ. 987.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उप-खण्ड (1), खण्ड 5, खण्ड 6, खण्ड 7 और खण्ड 8 के उप-खण्ड (1) के साथ पठित

बैंककारी कम्पनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, श्री एम.डी. मल्ल्या (जन्म तिथि : 9-11-1952), अध्यक्ष एवं प्रबंध निदेशक, बैंक ऑफ महाराष्ट्र को पदभार ग्रहण करने की तारीख से और 30-11-2012 तक, अर्थात् उनकी अधिवर्षिता की आयु पूरी होने की तारीख तक अथवा अगला आदेश होने तक, जो भी पहले हो, बैंक ऑफ बड़ौदा के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/18/2007-बी ओ-1]

जी. बी. सिंह, उप-सचिव

New Delhi, the 7th May, 2008

S.O. 987.—In exercise of the powers conferred by clause (a) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, clause 5, clause 6, clause 7 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri M.D. Mallia (DoB : 9-11-1952), Chairman and Managing Director, Bank of Maharashtra as Chairman and Managing Director, Bank of Baroda from the date of his taking charge of the post and till 30-11-2012, i.e. his date of superannuation or until further orders, whichever is earlier.

[F.No. 9/18/2007-BO-I]

G. B. SINGH, Dy. Secy.

(बीमा प्रभाग)

नई दिल्ली, 5 मई, 2008

का.आ. 988.—बीमा नियमावली, 1939 के नियम 60 के साथ पठित बीमा अधिनियम, 1938 की धारा 110छ की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्वारा, श्री बी. डी. बैनर्जी को तत्काल प्रभाव से और अगले आदेश होने तक, श्री जी. बी. राव के स्थान पर, परामर्शदात्री समिति के सदस्य के रूप में नियुक्त करती है।

[फा. सं. 12018/2/2006-बीमा-IV(III)]

एस. के. जिनदल, उप-सचिव

(Insurance Division)

New Delhi, the 5th May, 2008

S.O. 988.—In exercise of the powers conferred by sub-section (1) of the section 110G of the Insurance Act, 1938 read with the rule 60 of the Insurance Rules, 1939 the Central Government hereby appoint to Sh. B. D. Banerjee as a Member of the Consultative Committee vice Shri G. V. Rao with immediate effect and until further orders.

[F.No. 12018/2/2006-Ins. IV(III)]

S. K. JINDAL, Dy. Secy.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

नई दिल्ली, 30 अप्रैल, 2008

का.आ. 989.—सर्वजनिक स्थान (अनाधिकृत कब्जा हटाने) अधिनियम, 1971 के खण्ड 3 (1971 का 40) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत के राजपत्र के भाग II, खण्ड-3, उपखण्ड (ii) में दिनांक 7 सितम्बर, 1991 को प्रकाशित दिनांक 28 अगस्त, 1991 की अधिसूचना संख्या का.आ. 2303 को अधिक्रमण करते हुए केंद्र सरकार नीचे तालिका के कॉलम (1) में उल्लिखित अधिकारी को, सरकार के राजपत्रित श्रेणी के अधिकारी के समक्ष अधिकारी होने के नाते, उक्त अधिनियम के प्रयोजनार्थ सम्पदा अधिकारी के रूप में नियुक्त करती है। वे उक्त तालिका के कॉलम (2) में विनिर्दिष्ट सार्वजनिक स्थान के बारे में अपने क्षेत्राधिकार की स्थानीय सीमाओं के अंतर्गत उक्त अधिनियम द्वारा उसके अंतर्गत सम्पदा अधिकारी को दी गई शक्तियों का प्रयोग करेंगे तथा अपने कर्तव्यों का निर्वहन करेंगे।

तालिका

1	2
अधिकारी का नाम	सार्वजनिक स्थान की श्रेणी तथा क्षेत्राधिकार की स्थानीय सीमाएं
अधीक्षक अभियंता भारतीय प्रौद्योगिकी संस्थान, मुम्बई	भारतीय प्रौद्योगिकी संस्थान, मुम्बई से संबंधित अथवा पट्टे पर ली गई अथवा उसके द्वारा या उसकी ओर से मांगी गई भूमि, जो उसके प्रशासनिक नियंत्रण में आती है।

[एफ सं. 1-37/2006-टी.एस. 1]

यतेन्द्र कुमार, अवर सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

New Delhi, the 30th April, 2008

S.O. 989.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), and in supersession of its notification number S.O. 2303, dated the 28th August, 1991, published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 7th September, 1991, the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being the officer equivalent to the rank of a gazetted officer of the Government, to be estate officer for the purposes of the said Act, who shall exercise the powers conferred, and perform the duties imposed, on estate officer by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table.

TABLE

1	2
Designation of the Officer	Categories of public premises and local limits of jurisdiction
Superintending Engineer, Indian Institute of Technology, Bombay.	Premises belonging to or taken on lease or requisitioned by or on behalf of the Indian Institute of Technology, Bombay and which are under its administrative control.

[F.No. 1-37/2006-TS.]

YATENDRA KUMAR, Under Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 15 जनवरी, 2008

का.आ. 990.—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 9 के साथ पठित चलचित्र अधिनियम, 1952 की धारा 5 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, श्री सुब्रता मुखोपाध्याय, आई ई एस: 1995, उप आर्थिक सलाहकार, सूचना और प्रसारण मंत्रालय को तत्काल प्रभाव से 12000-375-16500 रुपये के वेतन-पान में प्रतिनियुक्ति आधार पर 01-01-2008 (पूर्वाह्न) से चार वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड, कोलकाता में क्षेत्रीय अधिकारी के रूप में नियुक्त करती है।

[फा. सं. 801/8/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

MINISTRY OF INFORMATION & BROADCASTING

New Delhi, the 15th January, 2008

S.O. 990.—In exercise of the powers conferred by sub-section (2) of Section 5 of the Cinematograph Act, 1952 read with rule 9 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Subrata Mukhopadhyay, IES : 1995, Dy. Economic Adviser, Ministry of Information and Broadcasting, as Regional Officer, Central Board of Film Certification, Kolkata in the pay-scale of Rs. 12000-375-16500 on deputation basis for a period of four years w.e.f. 01-01-2008 (FN) or until further orders, whichever is earlier.

[F.No. 801/8/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 17 जनवरी, 2008

का.आ. 991.—इस मंत्रालय की दिनांक 31 मई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्य के रूप में श्रीमती डी. श्रीलक्ष्मी, 101, रविकिरण अपार्टमेंट्स, गली नं. 6 हिमायत नगर, हैदराबाद-500029 को नियुक्त करती है।

[फा. सं. 809/1/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 17th January, 2008

S.O. 991.—In Continuation of this Ministry's Notification of even number dated 31st May, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the Smt. D.Srilaxmi, 101, Ravikiran Apartments, Street No. 6, Himayat Nagar, Hyderabad- 500029 as a member of the Hyderabad Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/1/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 8 फरवरी, 2008

का.आ. 992.—इस मंत्रालय की दिनांक 13 सितंबर, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सलाहकार पैनल के सदस्य के रूप में श्री मनोज मानो, फ्लैट सं. एच-416, टाइप-II, नानकपुरा, नई दिल्ली को नियुक्त करती है।

[फा. सं. 809/7/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 8th February, 2008

S.O. 992.—In continuation of this Ministry's Notification of even number dated 13th September, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the Shri Manoj Mano, Flat No.H-416, Type-II, Nanak Pura, New Delhi as a member of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/7/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 8 फरवरी, 2008

का.आ. 993.—इस मंत्रालय की दिनांक 6 अगस्त, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के मुंबई सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है:-

1. श्री मुकेश चंद्रनाथ शर्मा,
अधिकार भवन, दूसरा तल, विस्तार भावादीन गौरी,
शंकर भवन, ओल्ड नगरदास रोड,
अंधेरी (पू.), मुंबई- 69.

2. श्री संतोष जगन्नाथ अवहद,
1/106, ए विंग सिन्हागड सी एच एस
ग्रेट ईस्टर्न रॉयल टॉवर के सामने, बेलसिस पुल, तारदेव,
मुंबई -34
3. डा. राज तेन्दुलकर
दलवी अस्पताल, 38, एन एस पाटकर मार्ग,
मुंबई-7,
4. डा. अर्चना शाह,
'कुमकुम' भूतल नानावती अस्पताल के पास,
एस. वी. रोड, विले पार्ले (प.), मुंबई - 56
5. सुश्री अनामिका झा,
ए- 602, साई धाम प्लॉट सं. 28, आर एस -सी, 22, सेक्टर 8,
चारकोप कान्दिवली पश्चिम, मुंबई-67.

[फा. सं. 809/4/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 8th February, 2008

S.O. 993.—In continuation of this Ministry's Notification of even number dated 6th August, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Mumbai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier:

1. Shri Mukesh Chandranath Sharma,
Adhikar Bhavan, 2nd Floor, Ext. Matadin Gauri,
Shankar Bhavan, Old Nagardas Road,
Andheri (East), Mumbai - 69.
2. Shri Santosh Jagannath Avhad,
1/106, A Wing, Sinhadag CHS,
Opp. Great Eastern Royal Tower,
Bellasis Bridge, Tardeo, Mumbai - 34.
3. Dr. Raj Tendulkar,
Dalvi Hospital, 38, N. S. Patkar Marg,
Mumbai - 7.
4. Dr. Archana Shah,
'Kum Kum' Ground Floor, Near Nanavati Hospital,
S. V. Road, Vile Parle (W), Mumbai - 56.
5. Ms. Anamika Jha,
A- 602, Sai Dham, Plot No.28, RSC-22, Sector 8,
Charkop Kandivali West, Mumbai - 67

[F. No. 809/4/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 8 फरवरी, 2008

का.आ. 994.—इस मंत्रालय की दिनांक 29-3-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के चेन्नई सलाहकार पैनल के सदस्य के

रूप में डा. पी. पचैमल, निदेशक, सैन्डेक्ट, 89-ए/बी-3, वेस्ट, स्ट्रीट, कामाचीपुरम (एस ओ), जिला-थेनै, तमिलनाडु-625520, को नियुक्त करती है।

[फा. सं. 809/2/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 8th February, 2008

S.O. 994.—In continuation of this Ministry's Notification of even number dated 29-03-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Dr. P. Patchaimal, Director, CENDECT, 89-A/B-3, West Street, Kamatchipuram (SO), Theni District, Tamil Nadu-625 520, as a member of the Chennai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/2/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 8 फरवरी, 2008

का.आ. 995.—इस मंत्रालय की दिनांक 31-5-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्य के रूप में श्री मेलम श्रीकृष्ण, मकान नं. 12-12-6/3, प्रकाश नगर, नरसरावपेट-522601 जिला-गुंटूर आंध्र प्रदेश को नियुक्त करती है।

[फा. सं. 809/1/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 8th February, 2008

S.O. 995.—In continuation of this Ministry's Notification of even number dated 31-5-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri Melam Sree Krishna, Door No. 12-12-6/3, Prakash Nagar, Narasaraopet-522601- Guntur District, Andhra Pradesh as a member of the Hyderabad Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/1/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 8 फरवरी, 2008

का.आ. 996.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन)

नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल के सदस्य के रूप में श्रीमती शाहिदा कमल, अफसल कॉटेज, टी.के.एम. सी. (पी ओ), कोल्लम 5 (केरल) को नियुक्ति करती है।

[फा. सं. 809/6/2007-एफ(सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 8th February, 2008

S.O. 996.—In continuation of this Ministry's Notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Smt. Shahida Kamal, Afsal Cottage, T.K.M.C.(PO), Kollam 5 (Kerala) as a member of the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/6/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 12 फरवरी, 2008

का.आ. 997.—इस मंत्रालय की दिनांक 5 फरवरी, 2008 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 3 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार तत्काल प्रभाव से तीन वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के सदस्य के रूप में श्रीमती अलका सिंह को नियुक्ति करती है।

[फा. सं. 809/11/2007-एफ(सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 12th February, 2008

S.O. 997.—In continuation of this Ministry's Notification of even number dated 5th February, 2008 and in exercise of the powers conferred by sub-section (1) of Section 3 of the Cinematograph Act, 1952 (37 of 1952) read with rule 3 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Smt. Alka Singh as a member of the Central Board of Film Certification with immediate effect for a period of three years or until further orders, whichever is earlier.

[F.No. 809/11/2007-F(C)]

SANGEETASINGH, Director (Films)

नई दिल्ली, 25 फरवरी, 2008

का.आ. 998.—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 3 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप धारा (1) और (3) द्वारा प्रदत्त शक्तियों का

प्रयोग करते हुए केंद्र सरकार, सरकारी राजपत्र में इस अधिनियम के प्रकाशन की तारीख से तीन वर्षों की अवधि के लिए या अगले तक, जो भी पहले हो, फिल्म प्रमाणन अपीलीय अधिकरण के सदस्य के रूप में श्री विजय पंजवानी को एतद्वारा नियुक्त करती है।

[फा. सं. 811/6/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th February, 2008

S.O. 998.—In exercise of the powers conferred by sub-section (1) and (3) of Section 5D of the Cinematograph Act, 1952 (37 of 1952) read with rule 43 of the Cinematograph Act (Certification) Rules, 1983, the Central Government hereby appoints Shri Vijay Panjwani as a member of the Film Certification Appellate Tribunal for a period of three years from the date publication of this notification in the Official Gazette or until further orders, whichever is earlier.

[F.No. 811/6/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 फरवरी, 2008

का.आ. 999.—इस मंत्रालय की दिनांक 29-3-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के चेन्नई सलाहकार पैनल के सदस्य के रूप में श्री जयकुमार एन.पी., 5-डी, क्राउन स्ट्रीट, कृष्णनकोल, नागरकोइल-629001, जिला-कन्याकुमारी को नियुक्त करती है।

[फा. सं. 809/2/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th February, 2008

S.O. 999.—In continuation of this Ministry's Notification of even number dated 29-03-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri. Jayakumar N.P., 5-D Crown Street, Krishnancoil, Nagercoil- 629001, Kanyakumari District as a member of the Chennai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/2/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 फरवरी, 2008

का.आ. 1000.—इस मंत्रालय की दिनांक 13 सितंबर, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र

अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सलाहकार पैनल के सदस्य के रूप में श्री सतिन्दर मोहन, 58, सूर्या किरण अपार्टमेंट्स, विकास पुरी, नई दिल्ली-18 को नियुक्त करती है।

[फा. सं. 809/7/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th February, 2008

S.O. 1000.—In continuation of this Ministry's Notification of even number dated 13th September, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri. Satinder Mohan, 58, Surya Kiran Apartment, Vikas Puri, New Delhi -18 as a member of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/7/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 फरवरी, 2008

का.आ. 1001.—इस मंत्रालय की दिनांक 6 अगस्त, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के मुंबई सलाहकार पैनल के सदस्य के रूप में श्री विठ्ठल भाऊराव उबादे, बीटी कैंप, एस.पी. शेड चॉल सं. 16, कमरा सं. 10, तुलसीवाड़ी, ताडदेव, मुंबई-34, को नियुक्त करती है।

[फा. सं. 809/7/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th February, 2008

S.O. 1001.—In continuation of this Ministry's Notification of even number dated 6th August, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri. Vitthal Bhaurao Ubale, BIT Camp, S.P. Shed Chawl No. 16, Room No. 10, Tulshiwadi, Tardeo, Mumbai-34 as a member of the Mumbai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/4/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 फरवरी, 2008

का.आ. 1002.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल के सदस्य के रूप में श्री विंसेंट डिपॉल एम, करुण्णा, वट्टाविलाकाट्टु विडु, आर.सी. स्ट्रीट, बलरामपुरम, तिरुवनंतपुरम-695501 को नियुक्त करती है।

[फा. सं. 809/6/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th February, 2008

S.O. 1002.—In continuation of this Ministry's Notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri Vincent De Paul M., Karunya, Vattavilakathu Veedu, R.C. Street, Balaramapuram, Thiruvananthapuram-695501 as a member of the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/6/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 26 फरवरी, 2008

का.आ. 1003.—इस मंत्रालय की दिनांक 31 मई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्य के रूप में सुश्री डी. विजयालक्ष्मी को नियुक्त करती है।

[फा. सं. 809/1/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 26th February, 2008

S.O. 1003.—In continuation of this Ministry's Notification of even number dated 31st May, 2007 and in exercise of the powers conferred by sub-section (1) of

Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Ms. D. Vijayalakshmi as a member of the Hyderabad Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/1/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 27 फरवरी, 2008

का.आ. 1004.—इस मंत्रालय की दिनांक 8 जनवरी, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के कटक सलाहकार पैनल के सदस्य के रूप में श्री अक्षय कुमार पाटी, क्वार्टर नं. वी ए - 23/1, यूनिट-2, जनपथ, भुवनेश्वर-751009 को नियुक्त करती है।

[फा. सं. 809/2/2006-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 27th February, 2008

S.O. 1004.—In continuation of this Ministry's Notification of even number dated 8th January, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri Akshaya Kumar Pati, Q.No. VA-23/1, Unit-2, Janpath, Bhubaneswar-751009 as a member of the Cuttack Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/2/2006-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 28 फरवरी, 2008

का.आ. 1005.—इस मंत्रालय की दिनांक 29-3-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के चेन्नई सलाहकार पैनल के सदस्य के

रूप में श्री जी.बी. मोहन गांधी, सं. 14/35, हनुमन्तरायन कोइल स्ट्रीट, ओट्टरी, चेन्नई-600012 को नियुक्त करती है।

[फा. सं. 809/2/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 28th February, 2008

S.O. 1005.—In continuation of this Ministry's Notification of even number dated 29-3-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri G.B. Mohan Gandhi, No. 14/35, Hanumantharayan Koil Street, Ottery, Chennai-600012, as a member of the Chennai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/2/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 28 फरवरी, 2008

क्र.आ. 1006.—इस मंत्रालय की दिनांक 8-1-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के कोलकाता सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है :-

- (1) श्रीमती चन्द्रिमा भट्टाचार्य
- (2) श्री सौरव चक्रवर्ती
- (3) श्रीमती कविता रहमान
- (4) श्रीमती सुतापा तालुकदार

[फा. सं. 809/1/2006-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 28th February, 2008

S.O. 1006.—In continuation of this Ministry's Notification of even number dated 8-1-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Kolkata Advisory Panel of the

Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier :—

- (1) Smt. Chandrima Bhattacharya
- (2) Shri Sourav Chakraborty
- (3) Smt. Kabita Rahman
- (4) Smt. Sutapa Talukdar.

[F.No. 809/1/2006-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 7 मार्च, 2008

क्र.आ. 1007.—इस मंत्रालय की दिनांक 13 सितम्बर, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सलाहकार पैनल के सदस्यों के रूप में श्री गगनदीप सिंह साहनी, सी-150, माई फील्ड गार्डंस, सेक्टर-51, गुरुगांव, हरियाणा को नियुक्त करती है।

[फा. सं. 809/7/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 7th March, 2008

S.O. 1007.—In continuation of this Ministry's Notification of even number dated 13th September, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri Gagan Deep Singh Sahni, C-150, Myfield Gardens, Sector-51, Gurgaon, Haryana as a member of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/7/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 12 मार्च, 2008

क्र.आ. 1008.—इस मंत्रालय की दिनांक 13 सितम्बर, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो,

केंद्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है :-

1. श्री रमेश गुप्ता,
I-51, अशोक विहार, फेज-I, नई दिल्ली।
2. डा. सरदार खान,
181, तृतीय तल, मॉडल बस्ती, फिल्मिस्तान के निकट,
नई दिल्ली।
3. सुश्री गीता निगम,
8बी/4, एन.पी.एल. कॉलोनी, न्यू राजेन्द्र नगर,
नई दिल्ली-60।

[फा. सं. 809/7/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 12th March, 2008

S.O. 1008.—In continuation of this Ministry's Notification of even number dated 13th September, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier :—

- (1) Shri Ramesh Gupta,
I-51, Ashok Vihar, Phase-I, New Delhi.
- (2) Dr. Sardar Khan,
181, 3rd Floor, Model Basti, Near Filmistan,
New Delhi.
- (3) Miss Geeta Nigam,
8B/4, NPL Colony, New Rajinder Nagar,
New Delhi-60.

[F.No. 809/7/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 12 मार्च, 2008

का.आ. 1009.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है :-

1. श्री जिम्मी जॉर्ज,
पेरिन्चेरिल अंजनाम, कौलाड डाकखाना,
जिला कोट्टायम, केरल।

2. श्री के.जे. जोसमोन,
कालुवेट्टुकलायल, पेरुम्बाइकड डाकखाना,
जिला कोट्टायम-686028।
3. श्री प्रदीप पारापुरम,
जी-308, शान अपार्टमेंट, पानामपल्ली नगर, कोच्चि-36

[फा. सं. 809/6/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 12th March, 2008

S.O. 1009.—In continuation of this Ministry's Notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier :—

- (1) Shri Jimmy George,
Perincheril Anjanam, Kollad PO,
Kottayam Dist., Kerala.
- (2) Shri K.J. Josemon,
Kalluvettukalaya, Perumbakad P.O.,
Dist. Kottayam-686028.
- (3) Shri Pradeep Parapuram,
G-308, Shan Apartment, Panampalli
Nagar, Kochi-36.

[F.No. 809/6/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 12 मार्च, 2008

का.आ. 1010.—इस मंत्रालय की दिनांक 8-1-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के कोलकाता सलाहकार पैनल के सदस्य के रूप में श्री विक्रान्त दुबे, 170 बनारस रोड, हावड़ा-6 को नियुक्त करती है।

[फा. सं. 809/1/2006-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 12th March, 2008

S.O. 1010.—In continuation of this Ministry's Notification of even number dated 8-1-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with

rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri Vikrant Dubey, 170 Benaras Road, Howrah-6 as a member of the Kolkata Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/1/2006-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 12 मार्च, 2008

का.आ. 1011.—इस मंत्रालय की दिनांक 31 मई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है :

1. श्री बी. सीता रमैयाह,
प्लॉट नं. 215-ए, एम.एल.ए. कॉलोनी,
बंजारा हिल्स, हैदराबाद-34।
2. श्री बी. रामा राव,
प्लॉट नं. 314-ए, एम.एल.ए. कॉलोनी,
बंजारा हिल्स, रोड नं. 12, हैदराबाद-34।
3. श्री शेख इमियाज अहमद,
एस.आई.एच.एस. कॉलोनी, क्वार्टर नं. 132,
विद्याधरपुरम, विजयवाड़ा-12।

[फा. सं. 809/1/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 12th March, 2008

S.O. 1011.—In continuation of this Ministry's Notification of even number dated 31st May, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Hyderabad Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

- (1) Shri B. Sita Ramiah,
Plot No. 215-A, MLAs Colony, Road No. 12,
Banjara Hills, Hyderabad-34.
- (2) Shri B. Rama Rao,
Plot No. 314-A, MLAs Colony, Banjara Hills,
Road No. 12, Hyderabad-34.

- (3) Shri Shaik Imthiyaz Ahmed,
SIHS Colony, Qr. No. 132, Vidhyadharapuram,
Vijayawada-12.

[F.No. 809/1/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 12 मार्च, 2008

का.आ. 1012.—इस मंत्रालय की दिनांक 29-3-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के चेन्नई सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है :

1. श्रीमती एस.पी. गिरिजा,
सं. 27, बजानई कोइल स्ट्रीट, नादुएनगराई,
अन्ना नगर, चेन्नई-40।
2. श्री एम.आर. वेंकटेशन,
सं. 36, कंडास्वामी लेआउट, प्रथम स्ट्रीट,
के.के. रोड, विल्लुपुरम-605 602।
3. श्री पी.जी. राजेन्द्रन,
बी-60, मेन स्ट्रीट, म्युनिसिपल कालोनी,
मेडिकल कालेज रोड, तंजौर-613 004।

[फा. सं. 809/2/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 12th March, 2008

S.O. 1012.—In continuation of this Ministry's Notification of even number dated 29-3-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Chennai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

- (1) Smt. S.P. Girija,
No. 27, Bajanai Koil Street, Nadueangarai,
Anna Nagar, Chennai-40.
- (2) Shri M.R. Venkatesan,
No. 36, Kandaswamy Layout, 1st Street,
K.K. Road, Villupuram-605 602.

(3) Shri P.G. Rajendran,
B-60, Main Street, Municipal Colony,
Medical College Road, Tanjore-613 004.

[F.No. 809/2/2007-F(C)]

SANGEETASINGH, Director (Films)

नई दिल्ली, 12 मार्च, 2008

का.आ. 1013.—इस मंत्रालय की दिनांक 8-1-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के कोलकाता सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है :

1. श्री किशोरी प्रसाद महतो,
पटेल नगर, एट, डाक एवं
जिला-लखी सराय, बिहार ।
2. श्री दिनेश कुमार पटेल,
नबी नगर, डाकखाना-दौड़ नगर,
जिला-औरंगाबाद, बिहार ।
3. श्री जहांगीर खान,
13 बीरचन्द पटेल पथ, पटना ।

[फा. सं. 809/1/2006-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 12th March, 2008

S.O. 1013.—In continuation of this Ministry's Notification of even number dated 8-1-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Kolkata Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier :

- (1) Shri Kishori Prasad Mahto,
Patel Nagar, At. PO & Dist.
Lakhisarai, Bihar.
- (2) Shri Dinesh Kumar Patel,
Nabi Nagar, P.O. Daud Nagar,
Dist. Aurangabad, Bihar
- (3) Shri Jahangir Khan,
13, Birchand Patel Path, Patna.

[F.No. 809/1/2006-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 12 मार्च, 2008

का.आ. 1014.—इस मंत्रालय की दिनांक 6 अगस्त, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के मुम्बई सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है :

1. श्री मुनाफ हाकिम,
98/1, बेलग्रामी रोड, कुर्ला पश्चिम,
मुम्बई-70 ।
2. श्री परमिन्द्र सिंह हंसपाल,
164, एल बी एस मार्ग, कुर्ला पश्चिम,
मुम्बई-70 ।
3. श्री सलीम मैपखान,
बो-3, 102 मैपखान, मरोल,
अन्धेरी (पू.) मुम्बई-59 ।

[फा. सं. 809/4/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 12th March, 2008

S.O. 1014.—In continuation of this Ministry's Notification of even number dated 6th August, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Mumbai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

- (1) Shri Munaf Hakim,
98/1, Belgrami Road, Kurla West,
Mumbai-70.
- (2) Shri Parminder Singh Hanspal,
164, LBS Marg, Kurla West,
Mumbai-70.
- (3) Shri Salim Mapkhan,
B-3, 102 Mapkhan Nagar, Marol,
Andheri (E), Mumbai-59.

[F.No. 809/4/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 19 मार्च, 2008

क्र.आ. 1015.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के अन्तर्गत में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के त्रिवन्थपुरम सलाहकार पैनल के सदस्य के रूप में श्री. थम्पमोन थॉमस, प्रकृति हाइट्स करकुलम, पो.ओ., त्रिवन्थपुरम को नियुक्त करती है।

[फा. सं. 809/6/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 19th March, 2008

S.O. 1015.—In continuation of this Ministry's Notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Prof. Thumpamon Thomas, Prakruti Heights, Karakulam P.O., Thiruvanthapuram as a member of the Thiruvanthapuram Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No.809/6/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 19 मार्च, 2008

क्र.आ. 1016.—इस मंत्रालय की दिनांक 29 मार्च, 2007 की समसंख्यक अधिसूचना के अन्तर्गत में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के चेन्नई सलाहकार पैनल के सदस्य के रूप में डा. सुज्जा मनोहरन, फ्लैट सं. 1-बी, क्लैरिज, 2 पदमवथियार रोड, जेपौर कालोनी, गोपालपुरम, चेन्नई-600086 को नियुक्त करती है।

[फा. सं. 809/2/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 19th March, 2008

S.O. 1016.—In continuation of this Ministry's Notification of even number dated 29th March, 2007 and in exercise of the powers conferred by sub-section (1) of

Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Dr. Sujatha Manoharan, Flat No. 1-B, Claridges, 2, Padmavathiar Road, Jeypore Colony, Gopalapuram, Chennai-600086 as a member of the Chennai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No.809/2/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 19 मार्च, 2008

क्र.आ. 1017.—इस मंत्रालय की दिनांक 13 सितम्बर, 2007 की समसंख्यक अधिसूचना के अन्तर्गत में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सलाहकार पैनल के सदस्य के रूप में श्री मोहम्मद इकरार, ए-109/110, जहांगीर पुरी, दिल्ली-110033 को नियुक्त करती है।

[फा. सं. 809/7/2007-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 19th March, 2008

S.O. 1017.—In continuation of this Ministry's Notification of even number dated 13th September, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri Mohd. Iqar, A-109/110, Jahangir Puri, Delhi-110033 as a member of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No.809/7/2007-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 24 मार्च, 2008

क्र.आ. 1018.—इस मंत्रालय की दिनांक 6 अगस्त, 2007 की समसंख्यक अधिसूचना के अन्तर्गत में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के मुम्बई सलाहकार पैनल के सदस्य के

रूप में श्री राजूभाई चिमनलाल ब्रह्मभट्ट, 4 न्यु पुष्पकुंज सोसायटी, नजदीक बड़ा गणेश, सुमुल डेयरी रोड, सुरत-395004 को नियुक्त करती है।

[फा. सं. 809/4/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 24th March, 2008

S.O. 1018.—In continuation of this Ministry's Notification of even number dated 6th August, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri Rajubhai Chimantlal Brhambhatt, 4, New Pushpakunj Society, Near Bada Ganesh, Sumul Dairy Road, Surat-395004 as a member of the Mumbai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/4/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 मार्च, 2008

का.आ. 1019.—इस मंत्रालय की दिनांक 8 जनवरी, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के कोलकाता सलाहकार पैनल के सदस्य के रूप में सुश्री नर्गिस बेगम, ब्लॉक-1/सी-9, कुस्तिया गवर्नमेंट हाउसिंग एस्टेट, कोलकाता-700039 को नियुक्त करती है।

[फा. सं. 809/4/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th March, 2008

S.O. 1019.—In continuation of this Ministry's Notification of even number dated 8th January, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Ms. Nargis Begum, Block-1/C-9, Kustia Government Housing Estate, Kolkata-700039 as a member of the Kolkata Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/4/2006-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 मार्च, 2008

का.आ. 1020.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है :-

1. श्रीमती नलिनी विजयरावन्
2. डा. (श्रीमती) जयाश्री गोपाकुमार
3. डा. (श्रीमती) अब्राहम मर्सी
4. श्रीमती विमला पेन्न
5. श्रीमती यमरा मेन्न
6. श्रीमती नागराजन सरस्वती
7. डा. पदमा शंकर
8. श्री विजय कृष्णन्
9. श्री पेरुमबरावन श्रीधरन्
10. श्री जार्ज ओनाकुर
11. श्री के. एल. श्रीकृष्णा दास
12. श्री थेंकिंकाड जोसफ
13. श्रीमती अबी जॉन
14. श्री एन. श्रीकुमार
15. श्री टेन्नी जोस
16. श्री ए. जी. थम्पन
17. प्रो. जॉन कुरियन

[फा. सं. 809/6/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th March, 2008

S.O. 1020.—In continuation of this Ministry's Notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification)

Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier :

1. Smt. Nalini Vijayaraghavan
2. Dr. (Smt.) Jayasree Gopakumar
3. Dr. (Smt.) Abraham Mercy
4. Smt. Vinia Menon
5. Smt. Vamcha Menon
6. Smt. Nagarajan Saraswathi
7. Dr. Padma Shankar
8. Shri Vijayakrishnan
9. Shri Perumbadavam Sreedharan
10. Shri George Onakkur
11. Shri K. L. Sreekrishna Das
12. Shri Thekkinkad Joseph
13. Smt. Abi John
14. Shri N. Sreekumar
15. Shri Terry Jose
16. A.V. Thampian
17. Prof. John Kurian

[F.No. 809/6/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 3 अप्रैल, 2008

क्र.आ. 1021.—चलचित्र अधिनियम (प्रमाणन) नियमावली, 1983 के नियम 43 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 व की उपधारा (1) और (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से तीन वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, फिल्म प्रमाणन अपीलीय अधिकरण के सदस्य के रूप में श्री अनिल थॉमस को नियुक्त करती है।

[फा. सं. 811/6/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 3rd April, 2008.

S.O. 1021.—In exercise of the powers conferred by sub-sections (1) and (3) of Section 5D of the Cinematograph Act, 1952 (37 of 1952) read with rule 43 of the Cinematograph (Certification) Rules, 1983, the Central Government hereby appoints Shri Anil Thomas as a member of the Film

Certification Appellate Tribunal for a period of three years from the date of publication of this notification in the Official Gazette or until further orders, whichever is earlier.

[F.No. 811/6/2007-F(C)]

SANGHETA SINGH, Director (Films)

नई दिल्ली, 3 अप्रैल, 2008

क्र.आ. 1022.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से केंद्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल के सदस्य श्री अनिल थॉमस, का त्यागपत्र स्वीकार करती है।

[फा. सं. 809/6/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 3rd April, 2008

S.O. 1022.—In continuation of this Ministry's Notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to accept the resignation of Shri Anil Thomas as Member of the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification with immediate effect.

[F.No. 809/6/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 अप्रैल, 2008

क्र.आ. 1023.—इस मंत्रालय की दिनांक 11 जुलाई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल के सदस्य के रूप में श्री ए. जयप्रकाश, गुरु कृष्णम, सावित्री पी. ओ. पोथेनकोड, तिरुवनंतपुरम -695 584 को नियुक्त करती है।

[फा. सं. 809/6/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th April, 2008

S.O. 1023.—In continuation of this Ministry's Notification of even number dated 11th July, 2007 and in exercise of the powers conferred by sub-section (1) of

Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri A. Jayaprakash, Guru Kripam, Santhigiri P.O., Pothencode, Thiruvananthapuram-695 584 as a member of the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No. 809/62007-F(C)]

SANGEETA SINGH, Director (Films)

इस्पात मंत्रालय

नई दिल्ली, 30 अप्रैल, 2008

का.आ. 1024.—राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसार में केन्द्रीय सरकार एतद्वारा इस्पात मंत्रालय के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों जिनके 80 प्रतिशत से अधिक कर्मचारीयुक्त ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :-

- (i) फ़ेरो स्क्रैप निगम लि., रायगढ़ इकाई कार्यालय, रायगढ़
- (ii) राष्ट्रीय इस्पात निगम लि., शाखा विक्रय कार्यालय, गाजियाबाद

[सं. ई. 11011/9/2006-हिन्दी (कार्यान्वयन)]

संजय मंगल, निदेशक

MINISTRY OF STEEL

New Delhi, the 30th April, 2008

S.O. 1024.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for Official Purpose of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the following Offices under the administrative control of Ministry of Steel, where more than 80% staff have acquired working knowledge of Hindi :—

- (i) Ferro Scrap Nigam Ltd., Raigarh Unit, Raigarh
- (ii) Rashtriya Ispat Nigam Ltd., Branch Sales Office, Gaziabad.

[No. E-11011/9/2006-Hindi (Implementation)]

SANJAY MANGAL, Director

यस्त्र मंत्रालय

नई दिल्ली, 30 अप्रैल, 2008

का.आ. 1025.—केन्द्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61) की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार एतद्वारा उपर्युक्त अधिनियम के प्रावधानों के अधीन इस अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए केन्द्रीय रेशम बोर्ड के सदस्य के रूप में कार्य करने के लिए निम्नलिखित व्यक्तियों का नामांकन अधिसूचित करती है :-

1. सुश्री सुनीता चतुर्वेदी इस अधिनियम की धारा निदेशक, रेशम उत्पादन 4(3)(जी) के तहत केन्द्र उत्तर प्रदेश सरकार, सरकार द्वारा नामित एलडीए कमर्शियल कॉम्प्लेक्स, विशाल खंड-3, गोमती नगर, लखनऊ
2. श्री एम. के. सिंह, आईएस, इस अधिनियम की धारा आयुक्त (रेशम), 4(3)(जी) के तहत केन्द्र मध्य प्रदेश सरकार, सरकार द्वारा नामित। लोअर बेसमेंट, सतपुरा भवन, भोपाल-462 004

[का. सं. 25012/56/99-रेशम]

भूपेन्द्र सिंह, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 30th April, 2008

S.O. 1025.—In exercise of the powers conferred by sub-section (3) of section 4 of the Central Silk Board Act, 1948 (LXI of 1948), the Central Government hereby notifies the nomination of the following persons to serve as members of the Central Silk Board for a period of three years from the date of this notification subject to the provisions of the said Act :—

1. Ms. Sunita Chaturvedi, Nominated by the Director of Sericulture, Central Government Government of Uttar Pradesh under Section 4(3)(g) LDA Commercial Complex, of the Act. Vishal Khand-3, Ganti Nagar, Lucknow
2. Shri M.K. Singh, IAS Nominated by the Commissioner (Silk), Central Government Government of Madhya Pradesh under Section 4(3)(g) Padesh Lower Basement, of the Act. Satpura Bhawan, Bhopal-462 004.

[F. No. 25012/56/99-Silk]

BHUPENDRA SINGH, Jt. Secy.

कोयला मंत्रालय

नई दिल्ली, 8 मई, 2008

क्र.आ. 1526.—केंद्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास), अधिनियम 1957 (1957 का 20) की धारा 4 की उपधारा (1) के अधीन भारत सरकार के कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्या क्र.आ. 1928, तारीख 28 जून, 2007 जो भारत के राजपत्र के भाग II, खंड 3, उपखंड (ii) तारीख 7 जुलाई, 2007 में प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिधेय की भूमि में, जिसका माप 389.377 हेक्टर (लगभग) या 962.150 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

और केंद्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि में कोयला अनिर्वास है;

अतः केंद्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 389.377 हेक्टर (लगभग) या 962.150 एकड़ (लगभग) माप की भूमि और उक्त भूमि में या उस पर के सभी अधिकारों को अर्जन करने के अपने आशय की सूचना देती है।

टिप्पण 1 : इस अधिसूचना के अंतर्गत आने वाले क्षेत्र की योजना रेखांक संख्या एम्ससीएल/एसयूआर/टीएलबी/02/2008 तारीख 28-1-2008 का निर्देशन कलेक्टर, संजयपुर (उड़ीसा) के कार्यालय में या कोयला नियंत्रक, 1 कौंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में या मुख्य महाप्रबंधक (सीपीएंडपी), महानदी कोलफील्ड्स लिमिटेड (कार्गिट प्लानिंग एंड प्रोजेक्ट डिपार्टमेंट), जगति विहार, हाऊस-जगति विहार, बुर्ला, संजयपुर उड़ीसा के कार्यालय में किया जा सकता है।

टिप्पण 2 : उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है जिसमें निम्नलिखित उपबंध हैं :-

अर्जन की बाधक अप्रतिष्ठा :

8.(1) कोई व्यक्ति जो किसी भूमि में, जिसकी बाधक धारा 7 के अधीन अधिसूचना जारी की गयी है, हितबद्ध है, अधिसूचना

जारी किए जाने से दोस दिन के भीतर संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकता है।

स्पष्टीकरण : (1) इस धारा के अंतर्गत यह आपत्ति नहीं मानी जायेगी कि कोई व्यक्ति किसी भूमि में कोयला उत्खनन के लिए स्वयं खनन सक्रियताएं करना चाहता है और ऐसी सक्रियताएं केंद्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम अधिकारी को लिखित रूप में की जाएगी और सक्षम अधिकारी आपत्तिकर्ता को स्वयं सुने जाने या किसी विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है, वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़े या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्रवाई के अभिलेख सहित विभिन्न रिपोर्टें केंद्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा और जो प्रतिस्पर्ध में हित का दावा करने का हकदार होत यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं।

टिप्पण 3 : केंद्रीय सरकार ने कोयला नियंत्रक, 1 कौंसिल हाउस स्ट्रीट, कोलकाता-700001 को उक्त अधिनियम की धारा (3) के अधीन अधिसूचना सं. क्र.आ. 2015 तारीख 10 जुलाई, 1995 द्वारा सक्षम प्राधिकारी के रूप में नियुक्त किया है।

अनुसूची

आईबी ब्लॉक XIII (तालाबीरा-II)
तालाबीरा क्षेत्र, जिला संजयपुर, उड़ीसा

सभी अधिकार :

(योजना रेखांक संख्या एम्ससीएल/एसयूआर/टीएलबी/02/2008 तारीख 28 जनवरी, 2008)

क्र.सं.	ग्राम-ग्राम का नाम	ग्राम संख्या	पटवारी हस्त/जब्त संख्या*	वहसील/धाना*	जिला	क्षेत्र (हेक्टर में)	टिप्पणी
01.	तालाबीरा	03		रेगुली/कातरबगा	संजयपुर	334.145	
02.	खिड़ा	02		रेगुली/कातरबगा	संजयपुर	55.232	
कुल क्षेत्र						389.377	
						हेक्टर (लगभग)	

*राजस्व रिकार्ड के अनुसार

कुल 389.377 हेक्टर (लगभग) या 962.150 एकड़ (लगभग)

1. तालावीरा ग्राम (भाग) में अर्जित किये जाने वाले प्लॉटों की संख्या :

1(पा), 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19 (पा), 21, 22, 23, 24, 25, 26, 27(पा), 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48(पा), 124, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 113, 214, 115, 116, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 261, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386(पा), 387, 388, 389(पा), 392(पा), 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 438(पा), 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 592(पा), 593, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611,

612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689(पा), 690(पा), 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703(पा), 704(पा), 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015(पा), 1017(पा), 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1041(पा), 1042(पा), 1043(पा), 1965, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 2019, 2020(पा), 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2146, 2147, 2148, 2149(पा), 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2000, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2234, 2235, 2237(पा), 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349,

2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2434, 2435, 2436, 2437, 2438(भा), 2439(भा), 2440(भा), 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456(भा), 2461(भा), 2462(भा), 2463(भा), 2464, 2465, 2466, 2467, 2468(भा), 2469, 2470, 2471(भा), 2472(भा), 2473, 2251, 2474, 2194/2475, 2189/2476, 474/2477, 215/2478, 215/2479, 208/2480, 471/2481, 243/2484, 2203/2485, 2203/2486, 2187/2487, 2195/2491, 195/2492, 2195/2493, 242/2494, 2218/2498(भा), 403/2502, 414/2503(भा), 416/2505(भा), 384/2506, 244/2507, 244/2508, 2186/2509, 2186/2510, 2185/2511, 2185/2512, 2185/2513, 147/2522, 2203/2531, 501/2532, 659/2533, 689/2534, 2444/2543, 2421/2546, 2405/2547, 2399/2548, 2399/2549, 2399/2550, 2399/2551, 2399/2552, 2399/2553, 704/2556, 136/2558, 180/2559, 3/2560, 2156/2584, 2133/2585, 2111/2586, 2020/2587, 2020/2588, 2104/2593, 2089/2595, 578/2598, 2412/599, 254/2604, 254/2605, 255/2606, 2443/2665, 2443/2666, 2190/2674, 2190/2675, 2454/2676, 2454/2677, 2390/2678, 2390/2679, 997/2684, 1007/2685, 2234/2687, 2234/2688, 987/2697, 655/2704, 2265/2708, 2267/2709, 2267/2710, 2266/2711, 2264/2712, 185/2713, 185/2714, 185/2715, 214/2716, 216/2717, 228/271, 239/2719, 239/2720, 242/2721, 242/2722, 242/2723, 455/2724, 520/2725, 520/2726, 520/2727, 520/2728, 521/2729, 522/2730, 600/2731, 625/2732, 625/2733, 653/2734, 654/2735, 986/2738, 1983/2788, 2189/2790, 2195/2791, 2227/2792, 2227/2793, 2238/2794, 2238/2795, 2242/2796, 2264/2797, 2270/2798, 2453/2799, 2453/2800, 2453/2801, 2453/2802, 2454/2803, 2454/2804, 2454/2805, 991/2806, 992/2807, 2354/2808, 2382/2809-2276/2810.

2. छिंडा ग्राम (भाब) में अर्जित किये जाने वाले प्लॉटों की संख्या :-

501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585,

586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611(भा), 666, 612, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 726(भा), 727(भा), 728, 729, 730, 731, 732, 733(भा), 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 782(भा), 783(भा), 788, 790, 1076(भा), 1078(भा), 1079(भा), 1080, 1081, 1082, 1083, 1084, 1085(भा), 1086(भा), 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125(भा), 1126, 1127, 1128, 1129, 1132(भा), 1133, 1134, 1135(भा), 1141(भा), 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386(भा), 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394(भा), 1395, 1396, 1398(भा), 1400, 1401, 1402, 1403, 1386/2150, 678/2214, 682/2215, 699/2216, 705/2217, 734/2218, 736/2219, 689/2220, 582/2227, 687/2235, 783/2241, 1100/2247, 1394/2262, 1394/2263, 1394/2264, 1394/2265, 1394/2266, 1394/2267(भा), 681/2275, 681/2276, 746/2304, 577/2335, 577/2336, 577/2337, 583/2338, 583/2339, 585/2340, 672/2341, 693/2342, 751/2343, 782/2348(भा), 1388/2407, 1395/2408, 1444/2409(भा), 693/2432 एवं 1370/2451.

आईबी XIII (तालाबीरा ब्लॉक -II) का सीमा वर्णन :

क से च : रेखा तालाबीरा प्लॉट संख्या-16 के उत्तर पश्चिम किनारे से ग्राम तालाबीरा और पत्रपाली की सम्मिलित सीमा पर बिन्दु क से प्रारंभ होती है फिर बिन्दु क-1 तक तालाबीरा और पत्रपाली ग्राम की सम्मिलित सीमा से उत्तर की ओर चलती है फिर पूर्व की ओर मुड़ कर तालाबीरा प्लॉट संख्या 1, 389, 386, 389, 392, 2503, 2505, 438 से होते हुए बिन्दु च तक पहुँचती है।

च से छ : रेखा तालाबीरा प्लॉट संख्या 448 तक तालाबीरा और छिंडा ग्रामों की सम्मिलित सीमा के साथ दक्षिण की ओर जाती है और फिर ग्राम छिंडा प्लॉट संख्या 2336, 577, 2335, 576, 571, 564, 563, 519 को उत्तरी सीमा से होते हुए पूर्व की ओर मुड़ती है और प्लॉट संख्या 529, 530, 512 की पश्चिमी सीमा से होते हुए उत्तर की ओर मुड़ती है फिर पूर्व की ओर मुड़ कर प्लॉट संख्या 511, 510, 505 और 504 की उत्तरी सीमा से होकर जाती है और बिन्दु छ पर मिलती है।

छ से ज : रेखा बिन्दु छ से आरंभ होकर ग्राम खिडा प्लाट संख्या 504, 503, 502, 501, 534, 557, 556, 561, 568, 610 के दक्षिण पूर्व कोने पर प्लाट संख्या 611 से गुजरती है और फिर प्लाट संख्या 611 की पूर्वी सीमा के साथ गुजरती है फिर प्लाट संख्या 666 से होते हुए जाती है और फिर प्लाट संख्या 722, 721, 720, 719 की पूर्वी सीमा के साथ गुजरती है और फिर प्लाट संख्या 727, 726, 733 से होते हुए जाती है और फिर प्लाट संख्या 790, 788, 2241 की पूर्वी सीमा के साथ गुजरती है और प्लाट संख्या 2348 के दक्षिण कोने तक पहुंचने के लिए प्लाट संख्या 783, 782, 2348 से होते हुए जाती है और फिर प्लाट संख्या 739 की सीमा तक पहुंचने के लिए दाहिनी ओर मुड़ती है और इसकी दक्षिणी सीमा के साथ ही साथ पूर्वी सीमा के साथ गुजरती है और फिर 773, 772 की पश्चिमी सीमा के साथ गुजरने के लिए बायीं ओर मुड़ती है फिर दाहिनी ओर मुड़ती है फिर प्लाट संख्या 768 की पूर्वी सीमा के साथ गुजरती है और फिर प्लाट संख्या 1076, 1078, 1079 से होते हुए गुजरती है । फिर प्लाट संख्या 1105, की पूर्वी सीमा तक पहुंचने के लिए प्लाट संख्या 1085, 1086 से होते हुए बढ़ती है और प्लाट संख्या 1105, 1119, 1124 की पूर्वी और दक्षिणी सीमा के साथ बढ़ती है फिर प्लाट संख्या 1125 से होकर गुजरने के लिए बायीं बढ़ती है और प्लाट संख्या 1129, 1128 की पूर्वी सीमा के साथ गुजरती है और फिर प्लाट संख्या 1132 से होकर गुजरती है और फिर प्लाट संख्या 1142 की उत्तरी सीमा के साथ बढ़ती है और फिर खिडा प्लाट संख्या 2159 और तालाबीरा प्लाट संख्या 2216 की सम्मिलित सीमा के साथ ग्राम खिडा और तालाबीरा की सम्मिलित सीमा तक पहुंचने के लिए प्लाट संख्या 1141, 1135 से होते हुए गुजरती है और फिर तालाबीरा प्लाट संख्या 2498 होते हुए आगे बढ़ती है और फिर तालाबीरा प्लाट संख्या 2232, 2687, 2688, 2235 की पूर्वी सीमा से होते हुए जाती है । प्लाट संख्या 2794 की पूर्वी सीमा पर पहुंचने के लिए प्लाट संख्या 2237 से होते हुए गुजरती है और ग्राम तालाबीरा और खिडा की सम्मिलित सीमा को पार करने के लिए दक्षिण को बढ़ती है और फिर खिडा प्लाट संख्या 1369, 1370 की पूर्वी सीमा के साथ गुजरती है और फिर इसकी पूर्वी सीमा के साथ गुजरती हुई 2150 की उत्तरी सीमा तक पहुंचने के लिए 2451 से होते हुए गुजरती है और फिर प्लाट संख्या 1403 की उत्तर-पूर्वी कोने तक पहुंचने के लिए प्लाट संख्या 1386 से गुजरती है और खिडा ग्राम की प्लाट संख्या 1401 की दक्षिणी-पूर्वी कोने पर बिन्दु ज पर समाप्त होने के लिए प्लाट संख्या 1402, 1401 की पूर्वी सीमा के साथ आगे बढ़ती है ।

ज से क : रेखा खिडा ग्राम की प्लाट संख्या 1401 के दक्षिण-पूर्वी किनारे पर बिन्दु ज से बढ़ती है और खिडा की प्लाट संख्या 1400, 1401, 1408 की पश्चिमी सीमा के साथ दक्षिणी सीमा से गुजरती है और प्लाट संख्या 1398 से होते हुए प्लाट संख्या 2267, 1394, 2409 से गुजरती हुई प्लाट संख्या 1396 की सीमा के साथ होते हुए प्लाट संख्या 2262 की दक्षिणी सीमा पर पहुंचती है और ग्राम खिडा तथा तालाबीरा की सम्मिलित सीमा पर पहुंचने के लिए उसकी दक्षिणी-पश्चिमी सीमा से गुजरती है और तालाबीरा प्लाट संख्या 2473 की पश्चिमी सीमा के साथ गुजरती है और तालाबीरा प्लाट संख्या 2472, 2471, 2468, 2462, 2463, 2461, 2456 से होते हुए प्लाट संख्या 2666 की पश्चिमी सीमा के साथ गुजरती है और प्लाट संख्या 2440, 2439, 2438 से होकर प्लाट संख्या 2437 तक पहुंचती है और फिर प्लाट संख्या 2437, 2434, 2432, 2431, 1965, 1968, 1969, 1970, 1972, 1973, 1977, 2788, 2019 की पश्चिमी सीमा के साथ गुजरती है और फिर प्लाट संख्या 2094 के दक्षिणी पश्चिमी किनारे पर प्लाट संख्या 2020 से होते हुए पहुंचती है और फिर प्लाट संख्या 2094, 2093, 2092, 2595 की पश्चिमी सीमा के साथ होते हुए प्लाट संख्या 2089 से प्लाट संख्या 2143 पर पहुंचती है और प्लाट 2089, 2142, 2146, 2147 की पश्चिमी सीमा के साथ होते हुए प्लाट संख्या 2149 से होकर प्लाट संख्या 1369 पर पहुंचती है और इसकी उत्तरी सीमा से गुजरती है और फिर प्लाट संख्या 689, 690 से होते हुए प्लाट संख्या 691 पर पहुंचती है और प्लाट संख्या 691, 692 की पश्चिमी सीमा से होते हुए प्लाट संख्या 703, 704 से गुजरती है और फिर प्लाट संख्या 2556, 654 की पश्चिमी सीमा के साथ और प्लाट संख्या 592 से होते हुए प्लाट संख्या 593, 595, 582, 581, 580, 579, 978, 966, 968, 1014 की पश्चिमी सीमा से होते हुए और प्लाट संख्या 1032, 1035 की पश्चिमी सीमा से गुजरते हुए 1015, 1017 से गुजरती है और फिर प्लाट संख्या 1041, 1042 से गुजरती है और फिर प्लाट संख्या 1043, 130, 131, 132, 133, 134, 124, 136 की पश्चिमी सीमा से गुजरती है और फिर प्लाट संख्या 48 से होते हुए प्लाट संख्या 29 पर पहुंचती है और प्लाट संख्या 29, 28 की पश्चिमी सीमा से होते हुए प्लाट संख्या 27 से गुजरती है और फिर प्लाट संख्या 21 की पश्चिमी सीमा के साथ प्लाट संख्या 19 से होते हुए प्लाट संख्या 16 की पश्चिमी सीमा से गुजरती हुई तालाबीरा ग्राम और पत्रपाली सीमा को छूती है ।

[फा. सं. 43015/2/2007-पीआरआईडब्ल्यू-1]

एम. शहाबुद्दीन, अवर सचिव

MINISTRY OF COAL

New Delhi, the 8th May, 2008

S.O. 1026.—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 1928 dated the 28th June 2007 issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) and published in the Gazette of India part- II, Section-3, sub-section (ii) of the Gazette of India dated the 7th July 2007, the Central Government gave notice of its intention to prospect for coal in 389.377 hectares (approximately) or 962.150 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And whereas the Central Government is satisfied that coal is obtainable from the said lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to acquire the land measuring 389.377 hectares (approximately) or 962.150 acres (approximately) and all rights in or over the said lands described in the Schedule appended hereto.

Note 1. The Plan bearing No. MCL/SUR/TLB/02/2008 dated 28th January 2008 of the area covered by this notification may be inspected in the office of the Collector Sambalpur (Orissa), or in the office of the Coal Controller, 1, Council House Street, Kolkata 700001, or in the office of the Chief General Manager (CP&P), Mahanadi Coalfields Limited (Corporate Planning & Project Department), Jagriti Vihar, PO. Jagriti Vihar, Burla, Sambalpur, Orissa.

Note 2. Attention is hereby invited to the provisions of Section 8 of the said Act, which provides as follows:

Objection to acquisition

8 (1) Any person interested in any land in respect of which a notification under Section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such land.

Explanation

- (1) It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.
- (2) Every objection under sub section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector

an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of Section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, the decision of that Government.

- (3) For the purposes of this section, a person shall be deemed to be interested in and who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.

Note 3. The Coal Controller, 1, Council House Street, Kolkata 700001 has been appointed by the Central Government as the competent authority under Section 3 of the said Act, vide notification number S.O. 2015, dated the 10th July 1995.

SCHEDULE**IB Block XIII (Talabira-II)**

Talabira Area, District: Sambalpur, Orissa

All Rights

(Plans bearing No. MCL/SUR/TALB/02/2008 dated 28th January 2008)

Sl. No.	Name of Maitha-Village	Village Number	Patwari haka/JL Number*	Tahsil/ District PS*	Area in Hectares	Remarks
01.	Talabira	03		Rengail/Katarbaga	Sambal-334.145	pur
02.	Khinda	02		Rengail/Katarbaga	Sambal-55.232	pur
Total					389.377	

*As per revenue records.

Total 389.377 hectares (approximately) or 962.150 acres (approximately)

1. Plot numbers to be acquired in village Talabira (Part)

1(P), 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19(P), 21, 22, 23, 24, 25, 26, 27(P), 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48(P), 124, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145,

146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 113, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 261, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386(P), 387, 388, 389(P), 392(P), 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 438(P), 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 592(P), 593, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689(P), 690(P), 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703(P), 704(P), 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015(P), 1017(P), 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1041(P), 1042(P), 1043(P), 1965, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 2019, 2020(P), 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2146, 2147, 2148,

2149(P), 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2234, 2235, 2237(P), 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2434, 2435, 2436, 2437, 2438(P), 2439(P), 2440(P), 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456(P), 2461(P), 2462(P), 2463(P), 2464, 2465, 2466, 2467, 2468(P), 2469, 2470, 2471(P), 2472(P), 2473, 2251/2474, 2194/2475, 2189/2476, 474/2477, 215/2478, 215/2479, 208/2480, 471/2481, 243/2484, 2203/2485, 2203/2486, 2187/2487, 2195/2491, 195/2492, 2195/2493, 242, 2494, 2218/2498(P), 405/2502, 414/2503(P), 416/2505(P), 384/2506, 244/2507, 244/2508, 2186/2509, 2186/2510, 2185/2511, 2185/2512, 2185/2513, 147/2522, 2203/2531, 501/2532, 659/2533, 659/2534, 2444/2543, 2421/2546, 2405/2547, 2399/2548, 2399/2549, 2399/2550, 21399/2551, 2399/2552, 2399/2553, 704/2556, 136/2558, 180/2559, 3/2560, 2156/2584, 2133/2585, 2111/2586, 2020/2587, 2020/2588, 2104/2593, 2089/2595, 578/2598, 2412/2599, 254/2604, 254/2605, 255/2606, 2443/2665, 2443/2666, 2190/2674, 2190/2675, 2454/2676, 2454/2677, 2390/2678, 2390/2679, 997/2684, 1007/2685, 2234/2687, 2234/2688, 987/2697, 655/2704, 2265/2708, 2267/2709, 2267/2710, 2266/2711, 2264/2712, 185/2713, 185/2713, 185/2715, 214/2716, 216/2717, 228/2718, 239/2719, 239/2720, 242/2721, 242/2722, 242/2723, 455/2724, 520/2725, 520/2726, 520/2727, 520/2728, 521/2729, 522/2730, 600/2731, 625/2732, 625/2733, 653/2734, 654/2735, 986/2738, 1983/2788, 2189/2790, 2195/2791, 2227/2792, 2227/2793, 2238/2794, 2238/2795, 2242/2796, 2264/2797, 2270/2798, 2453/2799, 2453/2800, 2453/2801, 2453/2802, 2454/2803, 2454/2804, 2454/2805, 991/2806, 992/2807, 2354/2808, 2382/2809 & 2276/2810.

2- Plot numbers to be acquired in village: Khinda (Part):

501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611(P), 666(P), 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 726(P), 727(P), 728, 729, 730, 731, 732, 733(P), 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 782(P), 783(P), 784, 785, 1076(P), 1078(P), 1079(P), 1080, 1081, 1082, 1083, 1084, 1085(P), 1086(P), 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125(P), 1126, 1127, 1128, 1129, 1132(P), 1133, 1134, 1135(P), 1141(P), 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386(P), 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394(P), 1395, 1396, 1398(P), 1400, 1401, 1402, 1403, 1386/2150, 678/2214, 682/2215, 699/2216, 705/2217, 734/2218, 736/2219, 689/2220, 582/2221, 687/2235, 783/2241, 1100/2247, 1394/2262, 1394/2263, 1394/2264, 1394/2265, 1394/2266, 1394/2267(P), 681/2275, 681/2276, 746/2304, 577/2335, 577/2336, 577/2337, 583/2338, 583/2339, 585/2340, 672/2341, 693/2342, 751/2343, 782/2348(P), 1388/2407, 1395/2408, 1444/2409(P), 693/2432, 1370/2451—

Boundary Description of IB XIII (Talabira Block-II)

A-F: Line starts from beginning point "A" on the common village boundary of village Talabira and Patrapali as well as on the north western corner of Talabira Plot No. 16 then moves towards north along the common village boundary of Talabira and Patrapali upto Point 'A-1' then turn east and passes through Talabira Plot Nos. 1, 389, 386, 389, 392, 2503, 2505, 438, up to point "F".

F-G: Line passes towards south along the common village boundary of Talabira and Khinda upto Talabira Plot No. 448 and then turns east along the northern boundary of village Khinda plot No. 2336, 577/2335, 576, 571, 564, 563, 519 and turns towards north along the western boundary of plot No. 529, 530, 512 then turns towards east and moves along the northern boundary of plot No. 511, 510, 505 & 504 and meets point "G".

G-H: Line moves from Point G on the south east corner of village Khinda Plot no. 504, 503, 502, 501, 534, 557, 556, 561, 568, 610 and through plot no. 611 and

then passes along the eastern boundary of plot no. 611 and passes through plot no. 666 and then passes along the eastern boundary of plot no. 722, 721, 720, 719 and then passes through plot no. 727, 726, 733, and then passes along the eastern boundary of plot no. 790, 788, 2241 and then through plot no. 783, 782, 2348 to reach to southern corner of plot no. 2348 and then turns right to reach the boundary of plot no. 739 and passes along its eastern as well as southern boundary and then turns left to pass along the western boundary of plot no. 773, 772 and turns right and passes along the eastern boundary of plot no. 768 and then through plot no. 1076, 1078, 1079 then moves through plot no. 1085, 1086 to reach the eastern boundary of plot no. 1105 and moves along the eastern and south boundary of plot no. 1105, 1119, 1124 then moves left to pass through plot no. 1125 and then passes along the eastern boundary of plot no. 1129, 1128 and then passes through plot no. 1132 and then moves along the Northern boundary of plot no. 1142 and then passes through Plot no. 1141, 1135 to reach the common village boundary of Khinda and Talabira as well as the common boundary of Khinda Plot No. 2159 and Talabira Plot No. 2216 and then moves through Talabira Plot No. 2498 and then through the Eastern boundary of Talabira Plot No. 2232, 2687, 2688, 2235 and then passes through Plot No. 2237 to reach the Eastern boundary of Plot No. 2794 and moves South to cross the common boundary of village Talabira and Khinda and then passes along the eastern boundary of Khinda Plot no. 1369, 1370 and then passes through plot no. 2451 to reach the northern boundary of Plot No. 2150 to pass along its eastern boundary and then move through plot no. 1386 to reach the north-eastern corner of Plot No. 1403 and then passes along the eastern boundary of Plot No. 1402, 1401 to terminate at Point 'H' on the south-eastern corner of plot no. 1401 of village Khinda.

H-A: Line moves from point 'H' on the south-eastern corner of plot no. 1401 of village Khinda and then passes along the southern as well as western boundary of Khinda plot no. 1401, 1400, 2408 and then passes through plot no. 1398 and then along the boundary of plot no. 1396 to pass through plot no. 2267, 1394, 2409 to reach the southern boundary of plot no. 2262 and passes along its south and western boundary to reach the common boundary of village Khinda and Talabira and then passes along western boundary of Talabira plot no. 2473 and pass through Talabira plot no. 2472, 2471, 2468, 2462, 2463, 2461, 2456 and then passes along the western boundary of plot no. 2666 and then passes through plot no. 2440, 2439, 2438 to reach plot

no. 2437 and moves along the western boundary of plot no. 2437, 2434, 2432, 2431, 1965, 1968, 1969, 1970, 1972, 1973, 1977, 2788, 2019 and then passes through plot no. 2020 to reach south western corner of plot no. 2094 and passes along the western boundary of plot no. 2094, 2093, 2092, 2595 through plot no. 2089 to reach plot no. 2143 and passes along the western boundary of plot no. 2089, 2142, 2146, 2147 and passes through plot no. 2149 to reach the boundary of plot no. 1369 and moves along its northern boundary and then passes through plot no. 689, 690 to reach plot no. 691 and passes along the western boundary of plot no. 691, 692 and then passes through plot no. 703, 704 and then along the western boundary of plot no. 2556, 654 and through plot no. 592 and passes along the western boundary of plot no. 593, 595, 582, 581, 580, 579, 978, 966, 968, 1014 and passes through plot no. 1015, 1017 and passes along the western boundary of plot no. 1032, 1035 and then passes through plot no. 1041, 1042 and then passes along western boundary of plot no. 1043, 130, 131, 132, 133, 134, 124, 136 and then pass through plot no. 48 to reach plot no. 29 and move along the western boundary of plot no. 29, 28 and then passes through plot no. 27 then along the western boundary of plot no. 21 and then passes through plot no. 19 and then along the western boundary of plot no. 16 to touch the common boundary of village Talabira and Patrapali.

[F.No. 43015/2/2007-PRIW-I]

M. SHAHABUDEEN, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 24 अप्रैल, 2008

क्र.अ. 1027.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खण्ड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(कों) में संशोधन किया गया/किये गए हैं :-

अनुसूची

क्रम संशोधित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
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(1)	(2)	(3)	(4)
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2. आई एस 7098 (भाग 3), 1993 की संशोधन संख्या 3	3, सितम्बर, 2007	17-4-2008
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इस भारतीय संशोधन की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: ईटी 09/टी-57]

पी. के. मुखर्जी, वैज्ञ. एफ एवं प्रमुख (विद्युत तकनीकी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 24th April, 2008

S.O. 1027.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No. and Year of the Indian Standards	No. and year of the Amendments	Date from which the Amendments shall have effect
(1)	(2)	(3)
2. IS 7098(Part 3), 1993 Specification for Cross-linked Polyethylene Insulated Thermoplastic Sheathed Cables Part 3 For working voltages from 66 kV up to and including 220kV.	03, September, 2007	17-4-2008

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. ET 09/T-57]

P. K. MUKHERJEE, Sc. F & Head (Electro-technical)

नई दिल्ली, 30 अप्रैल, 2008

New Delhi, the 30th April, 2008

क्र.आ. 1028.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खण्ड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(कों) में संशोधन किया गया/किये गए हैं :-

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 1417:1999-स्वर्ण एवं स्वर्ण मिश्र-धातुएं आमूषण/शिल्पकारी शुद्धता एवं मुहरंकन-विशिष्ट (तीसरा पुनरीक्षण)	संशोधन संख्या 2 दिसम्बर, 2007	1 मई, 2008

इन संशोधन की प्रतियां भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा राज्य कार्यालयों अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ: एमटीडी 10/टी-1]

डॉ. श्रीमति स्नेह भट्टा, वैज्ञानिक एफ एवं प्रमुख (एम टी डी)

S.O. 1028.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Year of the Indian Standard(s) Amendments	No. and year of the Amend-ments	Date from which the Amendments shall have effect
(1)	(2)	(3)	(4)
1.	IS 1417:1999 Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Mar-king Specification (Third Revision)	Amendment No.2 December, 2007	1 May, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices, New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices, Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. MTD 10/T-1]

DR. (MRS.) SNEH BHATLA,
Scientist F and Head (Met. Engg.)

नई दिल्ली, 30 अप्रैल, 2008

क्र.आ. 1029.—भारतीय मानक ब्यूरो (प्रमाणन विनियम) 1988 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधि सूचित करता है कि जिन लाईसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं :

अनुसूची

क्रम संख्या	लाईसेंस संख्या	लाईसेंस धारी का नाम व पता/फर्म का नाम व पता	लाईसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक एवं मानक संख्या	भा. मा. संख्या	रद्द तिथि	कारण	टिप्पणियां
1	2	3	4	5	6	7	8
1.	6308967	गोदावरी इंडस्ट्रीज करामनगर	पेकेजबंद पेय जल (पेकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543:04	19-12-07	मानक चिह्न का दुरुपयोग करना	
2.	6643779	श्री साई फुड्स एण्ड बेवारेजस कुसमगुडा	पेकेजबंद पेय जल (पेकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543:04	10-12-07	फैक्टरी के आदेश अनुसार	

1	2	3	4	5	6	7	8
3.	6664888	श्री साई प्रो. एण्ड नेवारजस निरमल	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543:04	13-12-07	मानक चिह्न का दुरुपयोग करना	
4.	6671885	विजय इंडस्ट्रीज विजयावाड़ा	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543:04	13-12-07	मानक चिह्न का दुरुपयोग करना	

[सं. सी एम डी/13:13]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 30th April, 2008

S.O. 1029.—In pursuance of sub-regulation (6) of the Regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars, of which are given below have been cancelled/suspended with effect from the date indicated against each :

SCHEDULE

Sl. No.	Licence No.	Firm Name/City	IS No.	Product	Date of Cancellation	Reason	Remarks
1.	6308967	Godavari Industries Karimnagar	IS 14543:2004	packaged drinking water (other than packaged natural mineral water)	19-12-2007		
2.	6643779	Sri Sai Foods and Beverages Kushaiguda	IS 14543:2004	packaged drinking water (other than packaged natural mineral water)	10-12-2007	As requested by the firm	
3.	6664888	Sri Sai Products and Beverages Nirmal	IS 14543:2004	packaged drinking water (other than packaged natural mineral water)	13-12-2007		
4.	6671885	Vijay Industries Vijayawada	IS 14543:2004	packaged drinking water (other than packaged natural mineral water)	13-12-2007	Misuse of ISI mark	

[No. CMD/13:13]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 1 मई, 2008

क्रा.आ. 1030.— भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

अनुक्रमिक	वैधता दिनांक	लाइसेंस संख्या	लाइसेंस धारकों का नाम और पता	उत्पादन	भा.म./भाग/विभाग/वर्ष
1.	12-3-2009	7819189	ओशियन बेव्हेरेजेस (नासिक) प्राइवेट लिमिटेड बो-87 एमआईटीसी, मालेगांव, सिन्नर, नासिक 422103	पैकेजबंद पेयजल	14543 : 2004
2.	18-3-2009	7827996	दत्ता ईरिगेशन कंपनी इण्डस्ट्रियल ईस्टेट, फैजपुर, तालुका-यावल, जलगांव-425503	सिंचाई उपस्कर ईमिटिंग पाइप सिस्टम	13488 : 1992
3.	30-3-2009	7832989	दि सुप्रिम इंडस्ट्रिय लिमिटेड, एच-20, यूनिट 2, एमआईटीसी एरिया,, जलगांव 425003	सिंचाई उपस्कर स्प्रिंकलर पॉलिथीलेन पाइप	14151 (भाग 1) 1999

[सं. सी एम डी/13 : 11]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 1st May, 2008

S.O. 1030.—In pursuance of sub-regulation (5) of the Regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies that the grant of licences particulars, of which given below in the following schedule :

SCHEDULE

S. No.	Licence No.	Validity Date	Name and Address (factory) of the Party	Product	IS No./Part/Sec. Year
1.	7819189	12-3-2009	Ocean Beverages (Nasik) Pvt. Ltd., B-87, MIDC, Malegaon Nasik, Sinnar-422103	Packaged Drinking Water (other than Packaged Natural Mineral Water) Specification	IS 14543:2004
2.	7827996	18-3-2009	Datta Irrigation Co. Industrial Estate, Faizpur, TAL: YAWAL Jalgaon-425503	Emitting pipes system	IS 13488: 1992
3.	7832989	30-3-2009	The Supreme Industries Limited, H-20, Unit-II, MIDC Area, Jalgaon-425003	Irrigation Equipment- Sprinklers-Polyethylene	IS 14151 (Part-1): 1999

[No. CMD/13:11]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 1 मई, 2008

क्र.आ. 1031.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम (5) के उप-विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है :-

अनुसूची

क्रम संख्या	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द/स्थगित करने की तिथि
1	2	3	4	5
1.	7744184	पिनाकिन अक्वा मिनरल्स प्रा. लि., मिल्कत नं. 436, क्र.सं. 30/2, धायरी नरहे रोड तालुका हवेली जिल पुणे	भामा 14543 : 2004 पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	25-02-2008
2.	7747190	धनलक्ष्मी री-रोलिंग मिल्स, डी-57, एडीशनल एमआईडीसी जालना-431203	भामा 1786 : 1985 कांक्रिट रीइन्फोर्समेंट के लिए उच्च शक्ति विरूपित स्टील की छड़ें व तारें	25-02-2008

[सं. : सी एम डी/13 : 13]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 1st May, 2008

S.O. 1031.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/with effect from the date indicated against each.

SCHEDULE

Sl. No.	Licence No.	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licensee cancelled	Date of cancellation
(1)	(2)	(3)	(4)	(5)
1.	7744184	Pinakin Aqua Minerals Pvt. Ltd., Milkat No. 436, S.No. 30/2 Dhayari Narhe Road, Taluka Haveli, District Pune	IS 14543 : 2004 Packaged drinking water (Other than packaged natural mineral water)	25-2-2008
2.	7747190	Dhanlaxmi Re-Rolling Mills D-57, Addl MIDC, Jalna-431203	IS 1786 : 1985 High strength deformed steel bars and wires for concrete reinforcement	25-2-2008

[No. : CMD/13 : 13]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 1 मई, 2008

क्र.आ. 1032.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाईसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम: लाईसेंस सं.	लाईसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाईसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	मा मा प्राग संख्या	अनुभाग	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	7817185	28-01-2008	गोपीनाथ गोल्ड 768/769, बुधवार पेठ पुणे-411002	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी, शुद्धता एवं मुहरांकन	1417		1999
2.	7813076	28-01-2008	देवकाटे एग्री इंस्टीट्यूट गट सं. 64, रामनगर जालना रोड जिला-बीड-431122	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543		2004
3.	7817286	30-01-2008	वाफगांवकर लक्ष्मी ज्वैलर्स ए/पी चाकण, बाजार पेठ, तासुका खेड जिला पुणे	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी, शुद्धता एवं मुहरांकन	1417		1999
4.	7818692	27-01-2008	कार्तिक एग्री केम प्रा.लि. डी-102, एमआईडीसी इंडस्ट्रियल एरिया, नंदेड-431603	पेयजल आपूर्ति के लिए यूपीवीसी पाईप्स	4985		2000
5.	7819088	11-02-2008	के.बी. घोडके सराफ 381, नारायण पेठ लक्ष्मी रोड पुणे-411030	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी, शुद्धता एवं मुहरांकन	1417		1999
6.	7818894	18-02-2008	साई गणेश फूड इंस्टीट्यूट गट सं. 111 रुद्धा, नंदेड रोड अहमदपुर जिला लातूर-413515	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543		2004
7.	7821580	18-02-2008	भाग्यलक्ष्मी रेलिंग मिल प्रा. लि., प्लॉट नं. जी-9 एंड गट सं. 30, फेज नं. II, एडीरानल एमआईडीसी दारेगांव विलेज जिला जालना-431203	कांक्रिट रीइन्फोर्समेंट के लिए उच्च शक्ति विरूपित स्टील की छड़ें व तारें	1786		1985
8.	7823180	21-02-2008	योगेन्द्र डी. अष्टेकर एंड कंपनी 604/605, सदाशिव पेठ कुटे चौक, लक्ष्मी रोड, पुणे-411030	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी, शुद्धता एवं मुहरांकन	1417		1999

[सं. सी एम डी/ 13 : 11]

ए. के. तलवार, उप महानिदेशक (मुद्रा)

New Delhi, the 1st May, 2008

S.O. 1032.—In pursuance of sub-regulation (5) of the Bureau of Indian Standards (Certification) Regulation, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following Schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name & Address of the Party	Title of the Standard	IS No.	Part	Section	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	7817185	28-1-2008	Gopinath Gold 768/769, Budhwar Peth Pune-411002	Gold and gold alloys, jewellery/artefacts— Fineness and marking	1417			1999
2.	7813076	28-1-2008	Devkate Agro Industries Gut No. 64 Ramnagar Jalna Road District Beed-431122	Packaged drinking water (Other than packaged Natural mineral water)	14543			2004
3.	7817286	30-1-2008	Wafgaonkar Laxmi Jewellers A/P Chakan, Bazar Peth Taluka Khed District Pune.	Gold and gold alloys, jewellery/artefacts— Fineness and marking	1471			1999
4.	7818692	27-1-2008	Kartik Agro Chem Pvt. Ltd. D-102, MIDC Indl Area, Nanded-431603	UPVC pipes for potable water supplies	4985			2000
5.	7819088	11-2-2008	K.B. Ghodke Saraf 381, Narayan Peth Laxmi Road, Pune-411030	Gold and gold alloys, jewellery/artefacts— Fineness and markings	1417			1999
6.	7818894	18-2-2008	Sai Ganesh Food Industries Gat No. 111 Ruddha, Nanded Road, Amedpur District Latur-413515	Packaged drinking water (Other than packaged Natural mineral water)	14543			2004
7.	7821580	18-2-2008	Bhagyalaxmi Rolling Mill Pvt. Ltd., Plot No. G-9 & Gut No. 30, Phase II, Addl. MIDC, Daregaon Village, District Jalna-41203	High strength deformed steel bars and wires for concrete reinforcement	1786			1985
8.	7823180	21-2-2008	Yogendra D. Ashtekar & Company 604/605, Sadashiv Peth Kunte Chowk, Laxmi Road, Pune-411030	Gold and gold alloys jewellery/artefacts— Fineness and marking	1417			1999

[No. CMD/13: 11]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 2 मई, 2008

क्र.आ. 1033.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के नियम 4 के तप-नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न लाइसेन्सों के विवरण नीचे अनुसूची में दिए गए हैं, जे स्वीकृत कर दिए गए हैं :-

अनुसूची

मार्च 2008 में स्वीकृत किये गये अनुज्ञापि

क्र. सं.	लाइसेंस संख्या	लाइसेंसी का नाम तथा पता	उत्पाद का नाम तथा आई एस	अनुज्ञापि स्वीकृत करने की तिथि
1	2	3	4	5
1.	7830278	मैसर्स एमपीयर इलेक्ट्रिकल, 28 पटेल नगर, मरणा फार्म के पास, शास्त्री स्टेडियम के पीछे, बापनगर, अहमदाबाद	श्री फेस इंडक्शन मोटर्स आई एस 325 : 1996	27-3-2008
2.	7831583	मैसर्स प्रीशियन टूल रुम, एल 84, जी आई डी सी, ओडव रोड, ओडव, अहमदाबाद	श्री फेस इंडक्शन मोटर्स आई एस 325 : 1996	28-3-2008
3.	7829596	मैसर्स संगीता गोल्ड पैलेस, 2, महादेव काम्प्लेक्स, महादेव वास के पीछे, नवा चाहेज, अहमदाबाद	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	24-3-2008
4.	7829697	मैसर्स शुभम ज्वैलर्स, 39/460, भारत नगर पार्ट 3, सोला रोड, नारायणपुरा, अहमदाबाद	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	26-3-2008
5.	7829701	मैसर्स विजय लक्ष्मी ज्वैलर्स, 4/8/18, ठक्कर बिल्डिंग, स्टेशन रोड, आनंद	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	26-3-2008
6.	7829802	मैसर्स वृंदावन ज्वैलर्स, मेन बाजार, एड तथा पोस्ट थारड, बनसकांटा डिस्ट्रिक्ट	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	26-3-2008
7.	7830480	जय श्री कृष्णा ज्वैलर्स, अशोक स्तंभ के पास, टावर बाजार, आनंद	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	26-3-2008
8.	7830581	मैसर्स मंगलम ज्वैलर्स, कारोलिया पोल, एम जी रोड, वडोदरा	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	26-3-2008

1	2	3	4	5
9.	7830783	मैसर्स सास बहू ज्वैलर्स, जी 3, भाई काका काम्पलैक्स, नाना बाजार, बल्लभ विद्यानगर, आनंद	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	27-3-2008
10.	7831078	मैसर्स तुलसी ज्वैलर्स, जी एफ 2, जे पी कॉम्पलैक्स, नरोडा पुलिस स्टेशन, नरोडा अहमदाबाद-382 330	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	27-3-2008
11.	7827188	मैसर्स श्रीराम सीमेंट लिमिटेड, 305, तीसरी मंजिल, सम्मान काम्पलैक्स, सत्यम मिल के सामने, जोद्धपुर प्रेमचंदनगर रोड, सेटेलाइट, अहमदाबाद	आई एस 1489 (पार्ट 1) : 1991 Portland pozzolana Cement Part 1 Flyash based	17-3-2008
12.	7826994	हिंदुस्तान एसबैस्टोस पाईप पी ओ वडागाम, ता धनुसरा, साबरकांटा डिस्ट्रिक्ट, गुजरात	आई एस 1592 : 2003 एसबैस्टोस सिमेंट प्रेशर पाईप	14-3-2008
13.	7826590	मैसर्स ला गज्जर मशीनेरी (प्रा.) लिमिटेड, एसिडवाला एस्टेट, नागरवेल, हनुमान रोड, सुखरामपुरा पोस्ट ऑफिस के सामने, अमराईवाडी, अहमदाबाद	आई एस 8034 : 2002 सबमर्सिबल पम्पसेट	13-3-2008
14.	7831684	मैसर्स सत्यम इंजीनियरिंग कम्पनी 31, गोपाल इंडस्ट्रियल एस्टेट, बल्लभनगर के सामने, ओडब रोड, अहमदाबाद	आई एस 8034 : 2002 सबमर्सिबल पम्पसेट	28-3-2008
15.	7831987	मैसर्स कैपटन इंडस्ट्रीज, 18, जी आई डी सी, पालनपुर, डि बनसकांटा	आई एस 8034 : 2002 सबमर्सिबल पम्पसेट	28-3-2008
16.	7831886	मैसर्स रितेश इंडस्ट्रीज, 21, चार्चनार्थ एस्टेट, सी टी एम मिल के पीछे, रेवापाई एस्टेट रोड, अमराईवाडी	आई एस 8472 : 1988 पम्प-रिजैनेरेटिव या क्लीयर, कॉल्ड वाटर	28-3-2008
17.	7829091	मैसर्स गुजरात पैस्ट्रीसाइड, एफ 15, फेस 2, जी आई डी सी, नरोडा, अहमदाबाद	आई एस 8960 : 1978 मिथाईल पैराथियन डस्टिंग पाउडर	25-3-2008
18.	7826489	मैसर्स कैमराक इंडस्ट्रीज तथा एक्सपोर्ट, लिमिटेड, एट गौंव आसोज, वडोदरा हलील एथस हाइवे, ता वाधोडिया	आई एस 12709 : 1994 प्लास फाईबर रैनिफोर्सड प्लास्टिक पाईप	13-3-2008

1	2	3	4	5
19.	7831785	उन्नति इंडस्ट्रियल कार्पोरेशन, यूनिट 3, डी 61, डायमंड पार्क, जी आई डी सी एस्टेट, नरोडा अहमदाबाद	आई एस 14220 : 1994 ओपनवैल सबमर्सिबल पम्पसेट	31-3-2008
20.	7833082	मैसर्स जे के इंजिनियरिंग कम्पनी, 3 ए, महाशक्ति इंडस्ट्रियल एस्टेट, यमुना एस्टेट के सामने, सोनिया सिरामिक्स के पीछे, अहमदाबाद	आई एस 14420 : 1994 ओपनवैल सबमर्सिबल पम्पसेट	31-3-2008
21.	7824990	मैसर्स ओमकार बि बरेइज, सर्वोदय होटल के पीछे, एन एच 8, कंकरोल, ता हिम्मत नगर, डि साबरकांटा	पैकेजबंद पेयजल आई एस 14543 : 2004	04-3-2008
22.	7827390	मैसर्स नंदिनी बिजनेस, 13-14, पारेख घाटी, हिंदू मिलन मंदिर के सामने, कासानगर के सामने सुसुल डेरी रोड, कटरगाम सुल	पैकेजबंद पेयजल आई एस 14543 : 2004	17-3-2008
23.	7826388	मैसर्स टैक्सल इंडस्ट्रीज लिमिटेड, प्लॉट नंबर 2106, संतेज खतराज रोड, शाह स्टील के पास, गाँव संतेज	आई एस 15351 : 2003 टैक्सटाईल-लैमिनेटिड हाई डेंसिटी पालिथिलिन फैब्रिक	13-3-2008

[सो सी एम डी/13 : 11]

ए. को. तलावार, उप महानिदेशक (पुनर)

New Delhi, the 2nd May, 2008

S.O. 1033.—In pursuance of Sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Licensee Name	Product & IS No.	Date of GOL
1	2	3	4	5
1.	7830278	Ampere Electricals 28, Patel Nagar Near Margha Farm, B/H Shastri Stadium, Bapunagar, Ahmedabad	Three-phase induction motor IS 325-1996	27-03-2008
2.	7831583	Precision Tool Room L/84, GIDC, Odhav Road, Odhav, Ahmedabad	IS 325-1996 Three-phase induction motors;	28-03-2008

1	2	3	4	5
3.	7829596	Sangita Gold Palace 2 Mahadev Complex B/H Madhav Vas Nava Vadaj, Ahmedabad	IS 1417-1999 Gold and Gold Alloys, Jewellery/Artefacts—Fineness and Marking	24-03-2008
4.	7829697	Shubham Jewellers, 39/460 Parasnagar Part III, Sola Road Naranpura, Ahmedabad	IS 1417-1999 Gold and Gold Alloys, Jewellery/Artefacts—Fineness and Marking IS 1417: 1999	26-03-2008
5.	7829701	Vijayalaxmi Jewellers, 4/8/18 Thakkar Building, Station Road Anand	IS 1417-1999 Gold and Gold Alloys, Jewellery/Artefacts—Fineness and Marking	26-03-2008
6.	7829802	Vrundavan Jewellers, Main Bazar AI & Post Tharad, Dist. Banaskantha	IS 1417-1999 Gold and Gold Alloys, Jewellery/Artefacts—Fineness and Marking	26-03-2008
7.	7830480	Jayshree Krishna Jewellers, Near Ashok Stambh, Tower Bazar Anand	IS 1417-1999 Gold and Gold Alloys, Jewellery/Artefacts—Fineness and Marking	26-03-2008
8.	7830581	Manglam Jewellers, Karoliya Pole M G Road, Vadodara	IS 1417-1999 Gold and Gold Alloys, Jewellery/Artefacts—Fineness and Marking	26-03-2008
9.	7830783	Sas Bahu Jewellers, G-3, Bhaikaka Complex, Nana Bazar, Vallabh Vidya Nagar, Dist. Anand	IS 1417-1999 Gold and Gold Alloys, Jewellery/Artefacts—Fineness and Marking	27-03-2008
10.	7831078	Tulsi Jewellers, G.F.-2, J P Complex Near Naroda Police Station Naroda, Ahmedabad-382330	IS 1417-1999 Gold and Gold Alloys, Jewellery/Artefacts—Fineness and Marking	27-03-2008
11.	7827188	Shriram Cement Ltd., 305 3rd. Floor, Samaan Complex, Opp. Satyam Mall Jodhpur, Premchandnagar Road, Stellite Ahmedabad	IS 1489 Part 1: 1991 Portland pozzolana cement Part I Flyash based	17-03-2008
12.	7826994	Hindustan Asbestos Pipes, PO Vadagam TA Dhansura Dist Sabarkantha Gujarat	IS 1592-2003 Specification for asbestos cement pressure pipes	14-03-2008
13.	7826590	La-Gajjar Machneries (P) Ltd., Acidwala Estate Nagarwel Hunuman Road, Opp. Sukharampura Post Office, Amaraiwadi Ahmedabad	IS 8034: 2002 Submersible Pumpsets—Specification	13-03-2008

1	2	3	4	5
14. 7831684	Satyam Engineering Company, 31 Gopal Industrial Estate, Opp. Vallabhanagar, Odhav Road, Ahmedabad	IS 8034 : 2002 Submersible Pumpsets— Specification		28-03-2008
15. 7831987	Captain Industries 18 GIDC Palanpur TA Palanpur. Dist. Banaskantha	IS 8034 : 2002 Submersible Pumpsets— Specification		28-03-2008
16. 7831886	Ritesh Industries, 21 Parshavanath Estate, B/H CTM Mill Revabhai Estate Road. Amaraiwadi	IS 8472 : 1998 Pumps - Regenerative or clear, cold water—Specification		28-03-2008
17. 7829091	Gujarat Pesticides, F-15, Phase-II, GIDC, Naroda, Naroda, Ahmedabad	IS 8960 : 1978 Specification for Methyl Parathion Dusting Powders		25-03-2008
18. 7826489	Kemrock industries & Exports Ltd., At Village Asoj Vadodara Halol, Ex. Highway Taluka Waghodia	IS 12709 : 1994 Specification for glass-fibre reinforced plastic (GRP) Pipes joints and fittings for use for potable water supply		13-03-2008
19. 7831785	Unnati Industrial Corporation, Unit-3 D-61 Diamond Park GIDC Estate, Ahmedabad	IS 14220 : 1994 Openwell Submersible Pumpsets — Specification		31-03-2008
20. 7833082	JK Engineering Co., 3-A Mahashakti Industrial Estate, Opp. Yamuna Estate, Behind soniya Ceramics, Ahmedabad	IS 14220 : 1994 Openwell Submersible Pumpsets— Specification		31-03-2008
21. 7824990	Omkar Beverages B/H Sarvoday Hotel NH No. 8, Kankol TA Himamatnagar, Dist. Sabarkantha	IS 14543 : 2004 Packaged Drinking Water (other than Packaged Natural Mineral Water)—Specification		04-03-2008
22. 7827390	Nandini Beverages, 13-14, Parekh Wadi, Opp. Hindu Milan Mandir, Opp. Kananagar, Sumul, Dairy Road, Katargam, Surat.	IS 14543 : 2004 Packaged Drinking Water (other than Packaged Natural Mineral Water)—Specification		17-03-2008
23. 7826388	Texel Industries Limited (Old), Plot No. 2106, Santej-Khatraj Road, NR. Shah Steel, Vill. : Santej	IS 15351 : 2003 Textiles-Laminated High Density Polyethylene (HDPE) Fabric for Canal Lining—Specification		13-03-2008

[No. CMD/13: 11]

A. K. TALWAR, Dy. Director General (Marks)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 6 मई, 2008

का.आ. 1034.—भारत सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि अन्ध्रा प्रदेश राज्य में पूर्व गोदावरी जिला में ए.पी. स्टेशन नं. 1 गुम्मल्लदोही से एच. पी. सी. एल. बिल्डिंग यूनिट तक पाईप लाईन परियोजना के माध्यम से तरल पेट्रोलियम गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाईपलाइन बिछाई जानी चाहिए;

और भारत सरकार को उक्त पाईपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाईपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, भारत सरकार, पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध कर दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, वि. एस. पी. एल. प्रोजेक्ट, गैल भवन, ए. वी. अप्पाराव रोड, राजामुन्द्री-533 103 आन्ध्रा प्रदेश को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ.पू. अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
1	2	3	4	5
पूर्व	गोकवरम	गुम्मल्ल-	311 भाग	0.0971
गोदावरी		दोड्ड	310 भाग	0.0202
			295 भाग	0.2549
			309 भाग	0.0243
			296 भाग	0.1012
			297 भाग	0.0931
			428/1 भाग	0.0283
			428/2 भाग	0.0283

1	2	3	4	5
पूर्व	गोकवरम	गुम्मल्ल-	427/1 भाग	0.2792
गोदावरी		दोड्ड	427/2 भाग	0.2549
			427/3 भाग	0.2833
			301 भाग	0.0931
			302 भाग	0.0243
			424 भाग	0.0243
			418 भाग	0.1821
			419 भाग	0.0607
			421 भाग	0.238
			351 भाग	0.0607
			352/1 भाग	0.0931
			352/2 भाग	0.0971
			413 भाग	0.0324
			353/1 भाग	0.0567
			353/2 भाग	0.0607
			354/1 भाग	0.0526
			354/2 भाग	0.0486
			355 भाग	0.0243
			356 भाग	0.1821
			339 भाग	0.1093
			358 भाग	0.4047
			331 भाग	0.2509
			330 भाग	0.3116
			329 भाग	0.1497
			योग	4.0218
पूर्व	गोकवरम	गोकवरम	637 भाग	0.1497
गोदावरी			610 भाग	0.0607
			611 भाग	0.2509
			609 भाग	0.3035
			608 भाग	0.1093
			607 भाग	0.0486
			604/2 भाग	0.5787
			602 भाग	0.0971
			600 भाग	0.0093
			योग	1.6078

[फा. सं. एल-14014/5/2008-जी.पी.]

कं. के. शर्मा, अवर सचिव

**MINISTRY OF PETROLEUM AND
NATURAL GAS**

New Delhi, the 6th May, 2008

S.O. 1034.—Whereas it appears to Government of India that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas (LPG) from IP Station No.1 to HPCL Bottling Plant, Gummalla-doddi, Rajahmundry, East Godavari district of Andhra Pradesh State, a pipeline should be laid by, GAIL (India) Limited.;

And, whereas it appears to Government of India that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 (50 of 1962), Government of India hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Competent Authority, GAIL (India) Limited, VSPL Project, GAIL Bhawan, A.V. Apparao Road, Rajahmundry-533 103, Andhra Pradesh.

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for ROU (In Hectare)
1	2	3	4	5
East Godavari	Gokavaram	Gummalla-doddi	311 Part	0.0971
			310 Part	0.0202
			295 Part	0.2549
			309 Part	0.0243
			296 Part	0.1012
			297 Part	0.0931
			428/1 Part	0.0283
			428/2 Part	0.0283
			427/1 Part	0.2792

1	2	3	4	5
East Godavari	Goka- varam	Gummalla- doddi	427/2 Part	0.2549
			427/3 Part	0.2833
			301 Part	0.0931
			302 Part	0.0243
			424 Part	0.0243
			418 Part	0.1821
			419 Part	0.0607
			421 Part	0.238
			351 Part	0.0607
			352/1 Part	0.0931
			352/2 Part	0.0971
			413 Part	0.0324
			353/1 Part	0.0567
			353/2 Part	0.0607
			354/1 Part	0.0526
			354/2 Part	0.0486
			355 Part	0.0243
			356 Part	0.1821
			359 Part	0.1093
			358 Part	0.4047
			331 Part	0.2509
			330 Part	0.3116
			329 Part	0.1497
			Total	4.6218
	Goka- varam		637 Part	0.1497
			610 Part	0.0607
			611 Part	0.2509
			609 Part	0.3035
			608 Part	0.1093
			607 Part	0.0486
			604/2 Part	0.5787
			602 Part	0.0971
			600 Part	0.0093
			Total	1.6078

[F. No. L-14014/5/2008-GP]

K. K. SHARMA, Under Secy.

नई दिल्ली, 6 मई, 2008

का.आ. 1035.—भारत सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 2327 तारीख 30-6-2005 द्वारा श्री पी.एस. कर्मा, उप कलेक्टर को जिला झाबुआ, मध्य प्रदेश राज्य में मैसर्स गेल (इण्डिया) लिमिटेड द्वारा पाइपलाइन बिछाने के लिए उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए नियुक्त किया गया था;

और उक्त श्री पी.एस. कर्मा का स्थानांतरण हो गया है और श्री शेखर वर्मा, अतिरिक्त कलेक्टर को उनके पद पर नियुक्त किया गया है;

अतः अब, भारत सरकार, उक्त अधिनियम की धारा 2 के खंड (क) के अनुसरण में और भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 2327 तारीख 30-06-2005 को अधिकांत करते हुए, नीचे दी गई अनुसूची के स्तंभ (1) में वर्णित व्यक्ति को उक्त मैसर्स गेल (इण्डिया) लिमिटेड द्वारा, पाइपलाइन बिछाने के लिए निम्नलिखित अनुसूची के स्तंभ (2) में वर्णित क्षेत्र में उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए नियुक्त करती है।

अनुसूची

व्यक्ति का नाम और पता	अधिकारिता का क्षेत्र
(1)	(2)
श्री शेखर वर्मा, अतिरिक्त कलेक्टर मैसर्स गेल (इण्डिया) लिमिटेड में मानदेय आधार पर गेल कम्प्रेसर स्टेशन, गेयलूर कलां, जिला - झाबुआ, पिन : 457 661 (मध्य प्रदेश)	मध्य प्रदेश राज्य का झाबुआ जिला

[फा. सं. एल 14014/15/2005-जी.पी.]

के. के. शर्मा, अवर सचिव

New Delhi, the 6th May, 2008

S.O. 1035.—Whereas, in pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962), the Government of India vide Notification of Government of India in the Ministry of Petroleum and Natural Gas S.O. 2327 dated 30-06-2005 appointed Shri P.S. Karma, Dy. Collector to perform the functions of the Competent Authority under the said Act for laying of the pipeline by M/s. Gail (India) Limited in Distt. Jhabua of Madhya Pradesh State.

And, whereas, Shri P.S. Karma has been transferred and Shri Sekhar Verma, Additional Collector has been posted as his incumbent;

Now, therefore, in pursuance of clause (a) of Section (2) of the said Act and in supersession of the notification of the Government of India, Ministry of Petroleum & Natural Gas vide S.O. 2327 dated 30-06-2005, the Government of India hereby authorizes the person mentioned in column (1) of the Schedule given below to perform the function of the Competent Authority under the said Act for laying pipelines by the said M/s. Gail (India) Limited in the area mentioned in column (2) of the said Schedule.

SCHEDULE

Name and Address of the person	Area of Jurisdiction
(1)	(2)
Shri Sekhar Verma, Additional Collector, On honorarium basis to M/s. GAIL (India) Limited, GAIL Compressor Station, Gaylor Kalan, Distt. Jhabua, Pin-457 661 (Madhya Pradesh)	District Jhabua of Madhya Pradesh State.

[F. No. L-14014/15/05-G.P.]

K. K. SHARMA, Under Secy.

नई दिल्ली, 7 मई, 2008

का.आ. 1036.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड 3 के अनुसरण में, श्री रakesh कुमार शर्मा, सहायक कलेक्टर एवं कार्यपालक, मैजिस्ट्रेट, नागौर, राजस्थान सरकार को, राजस्थान राज्य क्षेत्र के भीतर उक्त अधिनियम के अधीन, एचपीसीएल-मिttल पाइपलाइन्स लिमिटेड की मुंद्रा - भठिण्डा पाइपलाइन के लिए सक्षम प्राधिकारी के कृत्यों का निर्वहन करने के लिए प्राधिकृत करती है।

[फा. सं. आर-31015/5/2000-ओ.आर-11]

अरुणोदय गोस्वामी, अवर सचिव

New Delhi, the 7th May, 2008

S.O. 1036.—In pursuance of clause (a) of Section 2 of the Petroleum and Mineral Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes Shri Rakesh Kumar Sharma, Assistant Collector & Executive Magistrate, Nagaur, Government of Rajasthan to perform the functions of the Competent Authority for the Mundra-Bathinda Pipeline Project of HPCL-Mittal Pipelines Limited, under the said Act within the territory of State of Rajasthan.

[F. No. R-31015/5/2000-O.R.11]

ARUNODAY GOSWAMI, Under Secy.

नई दिल्ली, 6 मई, 2008

का. आ. 1637.—केंद्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तामिलनाडु राज्य में चेन्नै से कर्नाटक राज्य में बेंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केंद्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसका उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इकतीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. आर. जन्नु, सक्षम अधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन डिविजन, 719, भूतल फ्लोर, 4th फ्लोर, 7th मैन स्ट्रीट, चन्नयन नगर, 1 ब्लॉक, बेंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा ।

अनुसूची

तालुका : मुलबागल	जिला : कोलार		राज्य : कर्नाटक		
गाँव का नाम	सर्वेक्षण सं- खण्ड सं.	उप-खण्ड सं.	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
चिक्कागुहाहल्लि	1	-	00	07	35
संगोडाहल्लि	82	-	00	06	91
चन्नापुरा	116	10	00	07	20
वरकुटेमिटदुर	348	-	00	06	39
मिणिजेनहल्लि	36	4	00	00	10
	34	-	00	03	44
	82	6	00	03	21
	31	4	00	02	45
थेडाहल्लि	102	-	00	29	79

[फा. सं. आर-25011/8/2007-ओ.आर.-I]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 6th May, 2008

S. O. 1037.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri R.R. Jannu, Competent Authority, Indian Oil Corporation Limited, Pipelines Division, 719, Ground Floor, 4th Cross, 7th Main, Kalyan Nagar, 1st Block, Bangalore – 560043. (Karnataka)

SCHEDULE

Taluka : Mulbagal		District : Kolar		State : Karnataka		
Name of the Village	Survey No.	Sub-Division No.	Area			
			Hectare	Are	Sq. Mtr.	
Chikkaguttahalli	1	-	00	07	85	
Sangodahalli	82	-	00	06	91	
Channapura	116	10	00	07	20	
Urakunte mitturu	348	-	00	06	39	
Minijenahalli	36	4	00	00	10	
	34	-	00	03	44	
	82	6	00	03	21	
	31	4	00	02	45	
Yedahalli	102	-	00	29	79	

[F. No. R-25011/8/2007-O.R.-I]
S.K. CHITKARA, Under Secy.

नई दिल्ली, 6 मई, 2008

का. आ. 1038.—केंद्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तामिलनाडु राज्य में चेन्नै से कर्नाटक राज्य में बेंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केंद्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती हैं ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. आर. जन्नु, सक्षम प्राधिकारी, इंडियन ऑयल कोर्पोरेशन लिमिटेड, पाइपलाइन डिविजन, 719, भूतल पत्तार, 4th फ्लोर, 7th ब्लॉक, बेंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा ।

अनुसूची

तालुका : बेंगारपेट		जिला : कोलार		राज्य : कर्नाटक		
गाँव का नाम	सर्वेक्षण सं- खण्ड सं.	उप-खण्ड सं.	क्षेत्रफल			
			हेक्टर	एयर	वर्ग मीटर	
जयमंगला	130	P1	00	54	11	
कंगानल्लूर	64	-	00	01	28	
कामण्डहल्लि	73	-	00	00	38	
मावहल्लि	57	2	00	01	33	
सिड्डाहल्लि	98	P7	00	33	84	
अक्षेत्रगोलाहल्लि	10	-	00	01	44	
मुगालाबेले	17	-	00	09	58	
सूलकुटे	21	1P	00	32	40	
निलकंठपुरा	19	-	00	00	09	

[फा. सं. आर-25011/8/2007-ओ.आर.-I]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 6th May, 2008

S. O. 1038—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Sri R.R. Jannu, Competent Authority, Indian Oil Corporation Limited, Pipelines Division, 719, Ground Floor, 4th Cross, 7th Main, Kalyan Nagar, 1st Block, Bangalore – 560043.(Karnataka)

SCHEDULE

Taluka : Bangarpet		District : Kolar		State : Karnataka		
Name of the Village	Survey No.	Sub-Division No.	Area			
			Hectare	Are	Sq. Mtr.	
Jaymangala	130	P1	00	54	11	
Kanganallur	64	-	00	01	28	
Kamandahalli	73	-	00	00	38	
Mavahalli	57	2	00	01	33	
Siddanhalli	98	P7	00	33	84	
Akshantragollahalli	10	-	00	01	44	
Mugalabele	17	-	00	09	58	
Sulakunte	21	1P	00	32	40	
Neelakanthapura	19	-	00	00	99	

[F. No. R-25011/8/2007-O.R.-I]
S.K. CHITKARA, Under Secy.

नई दिल्ली, 6 मई, 2008

का. अ. 1039.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तामिळनाडु राज्य में चेन्नै से कर्नाटक राज्य में बेंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने का अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. आर. जन्नु, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन डिविजन, 719, भूतल फ्लोर, 4th फ्लोर, 7th मैन्, 36 ल्याण गार, 1 ब्लॉक, बेंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा ।

अनुसूची

तालुका : मालूर	जिला : कोलार		राज्य : कर्नाटक		
गाँव का नाम	सर्वेक्षण सं- खण्ड सं.	उप-खण्ड सं.	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
निधर्मगला	32	-	00	00	93
कडसनहल्लि	23	-	00	17	44
वडगनहल्लि	73	3	00	18	00
माडिवाला	170	3	00	18	34

[फा. सं. आर-25011/8/2007-ओ.आर.-1]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 6th May, 2008

S. O. 1039.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri R.R. Jannu, Competent Authority, Indian Oil Corporation Limited, Pipelines Division, 719, Ground Floor, 4th Cross, 7th Main, Kalyan Nagar, 1st Block, Bangalore - 560043.(Karnataka)

SCHEDULE

Taluka : Malur		District : Kolar		State : Karnataka		
Name of the Village	Survey No.	Sub-Division No.	Area			
			Hectare	Are	Sq. Mtr.	
Nidharmangala	32	-	00	00	93	
Kadasannahalli	23	-	00	17	44	
Vadaganahalli	73	3	00	18	00	
Madivala	170	3	00	18	34	

[F. No R-25011/8/2007-O.R.-I]
S.K. CHITKARA, Under Secy.

नई दिल्ली, 6 मई, 2008

का. आ. 1040.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तमिलनाडु राज्य में चेन्नै से कर्नाटक राज्य में बेंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इसकीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. आर. जन्नु, सक्षम अधिकारी, इंडियन ऑयल कोर्पोरेशन लिमिटेड, पाइपलाइन डिविजन, 719, भूतल फ्लोर, 4th फ्लोर, 7th मैन ब्र्याग नगर, 1 ब्लॉक, बेंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा ।

अनुसूची

तालुका : होसकोटे		जिला : बेंगलुरु रुरल		राज्य : कर्नाटक		
गाँव का नाम	सर्वेक्षण सं- खण्ड सं.	उप-खण्ड सं.	क्षेत्रफल			
			हेक्टर	एयर	वर्ग मीटर	
टिडलु	36	A	00	00	26	
तरबहसिल	39	-	00	00	40	
देवरगोल्लहसिल	20	-	00	57	41	

[फा सं. आर-25011/8/2007-ओ.आर.-1]

एस. के. चिटकारा, अवसर सचिव

New Delhi, the 6th May, 2008

S. O. 1040—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Sri R.R. Jannu, Competent Authority, Indian Oil Corporation Limited, Pipelines Division, 719, Ground Floor, 4th Cross, 7th Main, Kalyan Nagar, 4th Block, Bangalore - 560043. (Karnataka)

SCHEDULE

Taluka : Hoskote		District : Bangalore Rural		State : Karnataka		
Name of the Village	Survey No.	Sub-Division No.	Area			
			Hectare	Are	Sq. Mtr.	
Tindlu	36	A	00	00	25	
Tarabhalli	39	-	00	00	40	
Devragoliahally	20	-	00	57	41	

[F. No. R-25011/8/2007-O.R.-I]
S.K. CHITKARA, Under Secy.

नई दिल्ली, 8 मई, 2008

क्र. आ. 1041.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन), अधिनियम 1962 (1962 का 50) (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 3166 तारीख 22 अक्तूबर, 2007 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में, मैसर्स रिलायंस इंडस्ट्रीज लिमिटेड की आन्ध्रप्रदेश में संरचनाओं से द्रष्टा के विभिन्न उपभोक्ताओं तक

प्राकृतिक गैस के परिवहन के लिए मैसर्स रिलायंस गैस ट्रान्सपोर्टेशन इन्फ्रास्ट्रक्चर लिमिटेड द्वारा पाइपलाइन विछाने के प्रायोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 18 फरवरी 2008 को अथवा उससे पूर्व उपलब्ध करा दी गई थी ;

और पाइपलाइन विछाने के संबंध में जनता की ओर से कोई आक्षेप प्राप्त नहीं हुआ है ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है ;

और भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन विछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन विछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, भारत सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से भारत सरकार में निहित होने के बजाए, सभी विल्लंगों से मुक्त, मैसर्स रिलायंस गैस ट्रान्सपोर्टेशन इन्फ्रास्ट्रक्चर लिमिटेड में निहित होगा।

अनुसूची				
मंडल: बापुलपाडु	जिला : कृष्णा	राज्य : आन्ध्र प्रदेश		
गाँव का नाम	खर्च सं. / सब डिविजन सं.	आर ओ पू अभित करने केलिए क्षेत्रफल		
		हेक्टेयर	एयर	कि एयर
1	2	3	4	5
1) मेडिचेरला	132/2	0	05	35
	1	0	08	70
	114	0	24	45
मंडल: नूनिनिडु	जिला : कृष्णा	राज्य : आन्ध्र प्रदेश		
1) गंगडु	20/2	0	08	45
	33/1	0	04	35
	52/2	0	04	15
	52/3	0	00	65
	82/2	0	03	20
	82/3	0	03	95
	84/2	0	02	45
	84/6	0	01	30
	88	0	00	50
	108	0	00	10
	111/1	0	00	10
	162	0	00	20
	178	0	27	50
	222/1	0	02	60
2) गोरमापुडि	242/2ए	0	11	25
	167/2	0	32	35
3) पोलसामपल्लि	13	0	61	05
4) राविदोरला	57/1	0	09	00
	58/1	0	02	65
	58/4	0	00	20
	58/6	0	00	30
	71/1	0	02	05
	104	0	00	10
	210/3	0	03	25
	229/6	0	15	10
	230/1	0	01	25

1	2	3	4	5
4) रविचोरा (निरंतर)	264/5	0	15	55
	264/8	0	00	95
मंडल: आगिरिपल्लि	जिला : कृष्णा			राज्य : आन्ध्र प्रदेश
1) वटिगुडिपाडु	47/84	0	00	90
	321/4	0	06	25
	324/3	0	03	20
	324/6	0	07	95
	325/3	0	07	10
2) एडारा	957/2	0	00	10
	962	0	01	00
	977	0	43	25
3) चोड्डनमल्लि	92/3	0	39	00
	181	0	04	35
	183/4	0	01	00
मंडल: जी. कोडूर	जिला : कृष्णा			राज्य : आन्ध्र प्रदेश
1) कोडूर	427	0	01	00
2) वेल्लाटूर	579/14	0	01	40
	583	0	00	25
3) कुंटानुककल्ल	456	0	01	75
	443/2	0	02	60
	478/1	0	00	15
4) वेदुदूर	221/3ए	0	00	25
	347/2	0	27	00
5) जी. कोडूर	61/2	0	00	30
6) गड्डननगु	8/4	0	45	05
7) पुनमपाडु	45/52	0	00	20
	76/1	0	04	05
	95/1	0	01	05
8) कुल्लपाडु	98/5ए	0	00	10
9) गणिवेनिपालेम	208/2	0	00	10
मंडल: वीरुलापाडु	जिला : कृष्णा			राज्य : आन्ध्र प्रदेश
1) गुडेन राधावरम	153/2बी	0	13	00
	149/2बी	0	14	55
	167/3	0	00	75

1	2	3	4	5
1) गुड्डम माधवारम (मिर्जापुर)	142/3	0	00	70
	105/3	0	01	30
2) जयति	536	0	00	45
मंडलाः वेनुगुप्तिपोलु	जिला : कृष्णा			राज्य : आन्ध्र प्रदेश
1) वेनुगुप्तिपोलु	397/7a	0	07	00
	735/6	0	09	15
	361/2	0	31	20
	498/4बी	0	00	10

[फा. सं. एल-14014/17/2003-जी. पी.]

स्नेह प्र. महान, अवर सचिव

New Delhi, the 8th May, 2008

S. O. 1041.—Whereas by a notification of the Government of India in Ministry of Petroleum and Natural Gas, number S.O. 3166 dated 22nd October 2007, issued under sub-section (i) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Government of India declared its intention to acquire the Right of User in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of natural gas from structures in Andhra Pradesh of M/s Reliance Industries Limited, by M/s Reliance Gas Transportation Infrastructure Limited to various consumers in the country;

And whereas the copies of the said Gazette notification were made available to the public on or before 18th February, 2008;

And whereas no objections were received from the public to the laying of the pipeline;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government of India;

And whereas the Government of India, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Government of India hereby declares that the Right of User in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Government of India hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Government of India, vest on the date of publication of the declaration, in M/s Reliance Gas Transportation Infrastructure Limited, free from all encumbrances.

Schedule				
Mandal : Bapulapadu		District : Krishna		State : Andhra Pradesh
Village	Survey No. / Sub-Division No.	Area to be acquired for ROU		
		Hectare	Ara	C-Are
1	2	3	4	5
1) Medicherla	132/2	0	05	35
	1	0	08	70
	114	0	24	45
Mandal : Nuzvid		District : Krishna		State : Andhra Pradesh
1) Vempadu	20/2	0	08	45
	33/1	0	04	35
	52/2	0	04	15
	52/3	0	00	65
	82/2	0	03	20
	82/3	0	03	95
	84/2	0	02	45
	84/8	0	01	30
	86	0	00	50
	108	0	00	10
	111/1	0	00	10
	162	0	00	20
	178	0	27	50
2) Morsapudi	222/1	0	02	80
	242/2A	0	11	25
	167/2	0	32	35
3) Polasanapalli	13	0	61	05
4) Ravicherala	57/1	0	09	00
	58/1	0	02	65
	58/4	0	00	20
	58/6	0	00	30
	71/1	0	02	05
	104	0	00	10
	210/3	0	03	25
	229/6	0	15	10
4) Ravicherala (contd...)	230/1	0	01	25
	254/5	0	15	55
	254/8	0	00	95
Mandal : Agiripalli		District : Krishna		State : Andhra Pradesh
1) Vattigudipadu	47/8C	0	00	90
	321/4	0	06	25
	324/3	0	03	20
	324/5	0	07	95
	325/3	0	07	10

1	2	3	4	5
2) Edara	957/2	0	00	10
	962	0	01	00
	977	0	43	25
3) Boddanapalli	92/3	0	39	00
	181	0	04	35
	183/4	0	01	00
Mandal : G. Konduru		District : Krishna		State : Andhra Pradesh
1) Koduru	427	0	01	00
2) Vellaturu	579/1B	0	01	40
	583	0	00	25
3) Kuntamukkala	456	0	01	75
	443/2	0	02	60
	478/1	0	00	15
4) Chevuluru	221/3A	0	00	25
	347/2	0	27	00
5) G. Konduru	61/2	0	00	30
6) Gaddamanugu	8/4	0	45	05
7) Munagapadu	45/E2	0	00	20
	78/1	0	04	05
	95/1	0	01	05
8) Sunnampadu	98/5A	0	00	10
9) Gangineripalem	208/2	0	00	10
Mandal : Veerulapadu		District : Krishna		State : Andhra Pradesh
1) Gudemmadhavaram	153/2B	0	13	00
	149/2B	0	14	55
	107/3	0	00	75
	142/3	0	00	70
	105/3	0	01	30
2) Jayanthi	536	0	00	45
Mandal : Penuganchiprotu		District : Krishna		State : Andhra Pradesh
1) Penuganchiprotu	397/7A	0	07	00
	735/6	0	09	15
	361/2	0	31	20
	498/4B	0	00	10

[F. No. L-14014/17/2003-G.P.]
SNEH P. MADAN, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 15 अप्रैल, 2008

का.आ. 1042.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 19/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-4-2008 को प्राप्त हुआ था।

[सं. एल-12012/124/2005-आई आर(बी -II)]

राजिंदर कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 15th April, 2008

S.O. 1042.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 19/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workman, received by the Central Government on 11-4-2008.

[No. L-12012/124/2005-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 9th January, 2008

Present : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 19/2006

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their Workman)

BETWEEN

Sri B. Durai : I Party/Petitioner

Vs.

1. The General Manager,
(IAEV Appellate Authority
Indian Bank, No. 66,
Rajaji Salai Chennai-600001 : II Party/Management

2. The Asstt. General Manager,
Disciplinary Authority,
Indian Bank Vellore

Appearance :

For the Petitioner : M/s. Balan Haridas

For the Management : M/s. T.S. Gopalan & Co.

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12012/124/2005 IR (B-II) dated 24-2-2002 referred the following industrial dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the Management of Indian Bank in imposing the punishment of Compulsory Retirement for the alleged misconduct said to have been committed by Sri B. Durai is legal and justified? If not, to what relief the workman Sri B. Durai is entitled to?"

2. The allegation in the claim statement are briefly as follows:

The petitioner who is an ex-serviceman joined the services of the Respondent Bank on 18-04-1994 as Clerk-cum-Cashier when he was working in Polur branch of the Respondent Bank, he was issued with a show cause notice-cum-suspension order dated 29-10-2001 for alleged misconduct. Though, he has given an explanation, the Respondent Bank has not satisfied and therefore a charge memo was issued on 08-1-2002 by the Respondent and enquiry was ordered to be conducted against him. The Enquiry Officer after enquiry has held that the charges framed against him are proved which is evident as a perverse and contrary to record. The Disciplinary Authority in his final order imposed the punishment of Compulsory Retirement on 28-4-2003. The appeal preferred against that order was also rejected by the Appellate Authority. The allegation in the charge sheet was that the petitioner has misappropriated Rs. 20,000/- being the amount remitted by one Sri Rajakannu on 02-5-2002 for crediting his SB A/c 3914 with the Polur branch from 02-5-2001 to 09-09-2001. Though, the allegation levelled against him is not correct, an enquiry was conducted and the customer Rajakannu who alleged to have given Rs. 20,000/- has not been examined in the enquiry. Though, on 02-05-2001, the customer, Sri Rajakannu came to the bank and remitted Rs. 20,000/- in his SB A/c. The petitioner received the cash and kept the cash aside for crediting and issued a receipt for payment to the customer and also made entry in the Savings Bank ledger. Further, the customer after a few minutes came back and requested to return the amount owing to some immediate domestic need and under such circumstance he returned Rs. 20,000/- back to the customer and destroyed the voucher. Further, due to pressure of work, he failed to get back the counterfoil which he has issued to the customer. On 18-05-2001, when the customer came to the bank to withdraw Rs. 5,800/- from his account, the previous entry made in the ledger was scored out as the same was by mistake and the balance in the account was correctly arrived at Rs. 227/-. However, by clear afterthought, the customer has given a letter dated 27-09-2001 to the bank that when he went to the bank after one month for withdrawing Rs. 20,000/- he was informed by the petitioner that Rs. 20,000/- has been spent by him and the petitioner had assured to return the same next day or give a promissory note for the same. The above belated complaint clearly shows that it had been preferred only with an intention to cause trouble to the petitioner. The inconsistent stand taken by the father of the customer, Rajakannu clearly demonstrates that the incident as alleged by him had never happened and the allegation had been levelled with ulterior motive. No doubt, the petitioner had

taken a hand loan of Rs. 20,000 from Sri Jayaraman, the father of Rajakannu, the customer after executing a promissory note. The petitioner owing to financial constraint could not repay the amount borrowed in time. Under such circumstances, the said Rajakannu with the aid of his father, Sri Jayaraman and one Annamalai exerted pressure on petitioner towards repayment of loan availed by him. In this backdrop, they had come to the branch and complained to the Branch Manager and the petitioner immediately made arrangements to make the payment of Rs. 20,000 on 04-09-2001. With the repayment of the loan amount, the matter had come to an end. Further, the amount of Rs. 20,000 which was borrowed by the petitioner was not the money of the bank or the customer, therefore, the charge made against the petitioner was not proved in the enquiry. The allegation of misappropriation will not lie against the petitioner. Further, the transaction is a private transaction between the petitioner and J. Rajakannu and it cannot be subject matter of disciplinary proceedings. Therefore, the findings given by the Enquiry Officer as proved is a perverse one and contrary to the evidence on record and the punishment imposed by the Disciplinary Authority is illegal. Further, the Disciplinary Authority has not considered the past records of the service of the petitioner. The Appellate Authority in a most arbitrary manner has confirmed this perverse finding. In any event, the punishment imposed is grossly disproportionate to the charges levelled against the petitioner and this Tribunal has every right to interfere with the quantum of punishment under Section 11-A of the ID Act. The enquiry conducted was in violation of principles of natural justice and fair play. Hence, for all these reasons, the petitioner prays this Tribunal to pass an award directed the Respondents to reinstate him in service with full back wages, continuity of service and other attendant benefits.

3. As against this, the Respondent in his counter statement alleged the Respondent is a nationalized bank and the petitioner was last employed in Polur branch of the Respondent Bank. As a Clerk-cum-Cashier, the petitioner has to discharge his duties with honesty, integrity and diligence. While so, on 02-05-2001, when the petitioner was working in cash department, one J. Rajakannu, a customer maintaining SB A/c No. 3914 had tendered to him a cash of Rs. 20,000 with related remittance challan and the SB Pass Book for crediting the amount in his account. After receiving the cash, the petitioner affixed cash received stamp on the pay-in slip, recorded the credit entry for Rs. 20,000/- in the Pass Book of the customer for arriving at the closing balance as Rs. 25,949/- and initialed the balance column and delivered the Pass Book to the customer. However, the petitioner had not accounted this Rs. 20,000/- in the bank's books, rough cash register and closed the day's total receipts. Thus, he retained the money with him with the intention of misappropriating the same. On 18-05-2001, Sri C. Jayaram, Asstt. Manager of the Bank while checking the transaction of withdrawal of Rs. 5,800/- from the account of the said customer, noticed the credit entry of Rs. 20,000/- as an extraneous entry, cancelled the credit entry dated nil for Rs. 20,000/- and corrected the closing balance as Rs. 227/- in the account. Subsequently, when Sri Rajakannu and his father approached the cashier/

petitioner for withdrawal of Rs. 20,000/- the petitioner took them aside and told that he had spent the money and he would return the next day or would execute a promissory note in lieu of the amount. When the father of the customer and one Sri K. Annamalai called at the branch on 05-09-2001 and made a complaint to the Branch Manager, the fraud committed by the petitioner came to light and immediately the petitioner was called for and when he was questioned, the petitioner accepted the cash receipt of Rs. 20,000 on 02-05-2001 from the customer and making false entries in the Pass Book of the customer as if the amount was remitted into his account with the bank. Even while the Branch Manager was discussing about the incident with Sri P. Jayaraman Annamalai, the petitioner left the branch and came back a little later returned Rs. 20,000/- to Sri Jayaraman, the father of the customer. Thus, the petitioner had misappropriated a sum of Rs. 20,000/- being bank's fund between 02-05-2001 and 04-09-2001. Therefore, an enquiry was conducted against his misconduct. The Enquiry Officer gave his report based on documentary and oral evidences holding that the charges against the petitioner were proved and the Disciplinary Authority awarded the punishment of Compulsory Retirement as provided by the bi-partite settlement and the enquiry was conducted after adhering the principles of natural justice and the punishment imposed on him is fully valid in law and justified. Even the appeal preferred by the petitioner was rightly rejected by the Appellate Authority. The alleged delay on the part of the customer to prefer the complaint in no way dilute the temporary defaultation of the loan by the petitioner/cashier. In the enquiry there was no need to examine the account holder since the account holder got the money, he would not be interested to come and give evidence. The entries made in the ledger folio and Pass Book which are made intentionally by the petitioner as if the bank had received the amount were unauthorized as far as the Respondent Bank was concerned. It is established between 02-05-2001 to 04-09-2001, the petitioner by misutilising his position as a Cashier in the bank had the benefit of Rs. 20,000/- tendered by the account holder and to that effect there was temporary defaultation/ misappropriation of the amount which itself cast a doubt on the integrity of the petitioner. It is not correct to say that it was a private transaction. The petitioner as a Cashier in the bank which is a Public Financial Institution, by stating that his past record was good, the petitioner cannot claim any right to commit a fraud on the bank. Therefore, the punishment of Compulsory Retirement cannot be said to be harsh or excessive or disproportionate to the charge of misappropriation. Hence, for all these reasons the Respondent prays that the claim may be dismissed with cost.

The points for determination are:

- (i) Whether the action of the Management of Indian Bank in imposing the punishment of Compulsory Retirement for the alleged misconduct said to have been committed by Sri B. Durai is legal and justified?
- (ii) To what relief the workman Sri B. Durai is entitled?

Point No.1

4. The charge against the petitioner viz. Sri Durai, Clerk/Shroff of Polur Branch is that he misappropriated on 02-05-2001 cash amounting to Rs. 20,000 being amount remitted by one Sri J. Rajakannu, a customer for crediting in SB A/c No. 3914 (his account) with Polur Branch. Subsequently, on 05-09-2001, the petitioner returned the misappropriated amount of Rs. 20,000 to one Sri Jayaraman, father of the Sri J. Rajakannu in the presence of Sri Murugesan, Branch Manager, Polur Branch and one Sri Annamalai, a friend of Sri Jayaraman. The petitioner has not disputed the conduct of the enquiry before this Tribunal. He alleged the Enquiry Officer has given a perverse finding and the Disciplinary Authority on the perverse finding of the Enquiry Officer has imposed the punishment of compulsory retirement to him which is illegal. It is well settled law that the findings of the Enquiry Officer must be supported by legal evidence. It is further settled a wrong finding is not necessary a perverse finding and a finding cannot be described to be perverse merely because it is possible to take a different view on the evidence, nor can a finding be called perverse because in certain matters the line of reasoning adopted by the Enquiry Officer is not very cogent or logical. Therefore, only in a case where findings or fact is based on no legal evidence and the conclusion is one to which no reasonable man would come, it would be a case of perversity and not of reappraisal of evidence. Therefore, in this case if the petitioner wants to get a relief, he must establish that the findings given by the Enquiry Officer is perverse and the imposition of punishment on the perverse findings is illegal. The learned counsel for the petitioner contended, it is alleged by the Respondent Bank on 02-05-2001, the petitioner received cash of Rs. 20,000 from J. Rajakannu, a customer of the bank who holds SB A/c No. 3914 in the Polur Branch and he marked No. 20 as scroll number with the pay-in-slip and also affixed cash received stamp in the pay-in-slip given by the said J. Rajakannu and credited the balance amount in the Pass Book of Rajakannu as Rs. 25,949/- and initialled the said entries and delivered the counterfoil of the pay-in-slip and also the Pass Book of Rajakannu to him and the bank further alleged against the petitioner that he has not credited this amount nor credited the said amount in the Bank's rough cash book maintained by the bank and he has thus misappropriated the amount. On the other hand, the petitioner has given a cogent evidence that the allegation levelled against him is not a correct one. No doubt, on 02-05-2001, the customer Sri Rajakannu came to the bank and remitted Rs. 20,000 in his SB A/c and no doubt, the petitioner received the cash and kept the cash aside for counting and simultaneously issued the receipt to the customer and also made entry in the SB ledger. But the customer, J. Rajakannu after a few minutes came back and requested the petitioner viz. the Cashier to return the amount owing to some immediate domestic need and the petitioner in such circumstances returned the said amount of Rs. 20,000 to the customer and destroyed the voucher with him. Further, due to pressure of work, he failed to get back the counterfoil which he had issued to the customer

and this was the real story for the incident. But the father of the customer, Jayaraman who has given an amount of Rs. 20,000 to the petitioner, with a view to get back the amount has cunningly play a role and falsely complained against the petitioner that the amount of Rs. 20,000 was misappropriated by the petitioner using the counterfoil which his son has kept with him. This fact was established by the contradictions in the statement given by Rajakannu, the customer and also Sri Jayaraman, the father of the complainant. In the letter dated 23-09-2001, it is mentioned that Sri Jayaraman on 02-05-2001 had remitted Rs. 20,000 and after two months he went along with his son to the bank to withdraw the money and so on. On the other hand Sri Rajakannu in his letter dated 27-09-2001 has mentioned that on 02-05-2001 he went to the bank to deposit Rs. 20,000 and so on. Therefore, the fact remains that it is only Sri Rajakannu who had come to bank on 02-05-2001 and he did not deposit the said amount of Rs. 20,000 as alleged by the petitioner. Therefore, the date mentioned in the complaint letter dated 23-09-2001 of Sri Jayaraman alleging the incident date is different from the date which he has mentioned in the domestic enquiry. Though, all these instances do not demonstrate individually that the facts stated by the petitioner is a true one but the cumulative effect of all the facts stated by the petitioner clearly establish that it is only Sri Jayaraman, the father of the customer has played a role against the petitioner in a belated complaint and it also demonstrates that the incident as alleged by the customer and his father, never happened and the complaint was levelled against him with ulterior motive and the complaint has been preferred by Sri Jayaraman, the father of the customer as an afterthought and it was made only to settle the personal transaction between the petitioner and Sri Jayaraman.

5. The learned counsel for the petitioner further contended that five witnesses have been examined in the domestic enquiry but the customer, Rajakannu who alleged to have been made the complaint did not come and depose before the Enquiry Officer and therefore it is clear that he had shied away from the enquiry and he is the person who had taken back Rs. 20,000 on 02-05-2001. No doubt, the customer's father viz. Jayaraman though examined and given evidence complaining against the petitioner, the contradictions and inconsistencies clearly establish that he is the villain in the incident. As such he argued that the charge framed against the petitioner has not been proved. He further argued since the customer, Rajakannu failed to come to the enquiry and subject himself to cross-examination, this has caused considerable prejudice to the defence of the petitioner and no valid reason was given by the Respondent authorities for non-examination of the said Rajakannu.

6. Then again, the learned counsel for the petitioner contended that the amount of Rs. 20,000 which the petitioner has borrowed from Jayaraman, the father of the customer was not the money of the bank or the customer and when the petitioner has repaid the amount of Rs. 20,000, it was not routed through the cash department of the bank

nor any receipt was prepared. It was the amount lent by Sri Jayaraman to the petitioner. Therefore, the private transaction between the petitioner and Sri Jayaraman cannot be a subject matter of disciplinary proceedings. Therefore, the allegation of misappropriation will not lie against the petitioner. Therefore, the findings rendered by the Enquiry Officer as if the charge is proved is perverse and contrary to the findings on record. It is his further argument, the very fact that Rajakannu had failed to appear in the enquiry will belie the charge. On the other hand, the Enquiry Officer in a most perverse manner has mentioned that it is for the petitioner to examine Sri Jayaraman as defense witness to disprove the charge. This will clearly demonstrate the biased attitude of the Enquiry Officer. When the bank has levelled the charge against the petitioner, it is only for the bank to prove the same and the petitioner has no duty to disprove the charge. Therefore, the findings of the Enquiry Officer is perverse and contrary to the evidence. The Disciplinary Authority based on the one-sided findings of the Enquiry Officer has imposed the major punishment of compulsory retirement and he also not considered the clean past record of the services of the petitioner before imposing the capital punishment. It is further argument that the Appellate Authority also in a most arbitrary manner has confirmed the punishment imposed on the petitioner.

7. But as against this, the learned counsel for the Respondent argued the Respondent Bank is a nationalized bank and the petitioner is a Clerk/Shroff is to discharge his duties with honesty, integrity and diligence. But, on 02-05-2001 when he was working as a Cashier, he has misappropriated the amount deposited by a customer viz. Sri J. Rajakannu. The petitioner has admitted the receipt of Rs. 20,000 on the other hand he has given a statement that Rajakannu, the customer has got back the amount for his immediate need. But there is no valid proof or satisfactory evidence to support this contention. Though, on that day, the Savings Bank Counter Clerk was present and available, the petitioner who as a Cashier has made/recorded a credit entry dated nil for Rs. 20,000 pertaining to the SB A/c 3914 of the customer in the SB ledger and arrived at closing balance of Rs. 26,027. These entries were made by his own handwriting, he has not stated for what reason he has made all these entries, when the Savings Bank Counter Clerk was available for making all these entries. Thus, it is clearly established that the petitioner has retained the money with the intention of misappropriating the same.

8. Then he further argued that on 18-05-2001 when the Asst. Manager of the branch while checking the transaction of withdrawal of Rs. 5,800 from the account of the said customer noticed the credit entry of Rs. 20,000 as an extraneous entry and therefore he cancelled the credit entry dated nil for Rs. 20,000 made by the petitioner. Subsequently, after two months, when Rajakannu and his father approached the Cashier for withdrawal of Rs. 20,000, the petitioner took him aside and told him that he had spent the money and he would return the amount the next day or would execute a promissory notice in lieu of the amount. This was stated by Jayaraman, the father of

Rajakannu in his evidence. When the said Jayaraman and his friend K. Annamalai called at the branch on 05-09-2001 and made a complaint to the Branch Manager, the fraud came to light and immediately the petitioner left the branch and came back a little later, returned the amount of Rs. 20,000 to Sri P. Jayaraman, father of the customer. If really the petitioner had returned the amount as alleged by him there is need for him to pay the said sum of Rs. 20,000 to Sri P. Jayaraman. Thus, it is established that the petitioner had misappropriated a sum of Rs. 20,000 being the bank's funds between 02-05-2001 and 04-09-2001. The Enquiry Officer based on the documentary and oral evidences has clearly held that the charges against the petitioner were found proved, therefore, the punishment imposed by the Disciplinary Authority is for an act of gross misconduct proved in an enquiry held for the purpose after adhering to the principles of natural justice and, the punishment is fully valid in law and justified and the petitioner has not made out a case warranting interference in the said punishment. Though, the petitioner alleged that the complainant was not examined in this case but there is no need to examine the account holder Rajakannu since the petitioner has admitted the facts in this case and he has given out a statement which was not established before the enquiry. Further, the account holder had got back the money and therefore he would not be interested to come and give evidence. Further, the bank cannot ask the account holder to come and give evidence in the interest of the bank. Since the petitioner has admitted the fact that he has received Rs. 20,000 to the account of the customer on behalf of the bank which he had not been accounted for in the cash book and therefore the entries in the Ledger Folio without any date and entries in the Pass Book which were made by him intentionally as if the bank has received the amount were unauthorized as per Respondent Bank was concerned. When the money was returned, no doubt, the unauthorized entries were erased and the irregularities were set right, the amount of misappropriation was established by the bank, the petitioner by utilizing his position as a Cashier had the benefit of Rs. 20,000 tendered by the account holder and to that extent, there was temporary defaultation/misappropriation of the amount which itself cast a doubt on the integrity of the petitioner. It cannot be said that it was a private transaction, having made the credit entry in the Pass Book/Savings Bank ledgers as if the amount has been accounted for in the books of the bank and also signed the ledger folio of the challan for the remittance of Rs. 20,000. It is not open to the petitioner to say that it was a private transaction. Therefore, the findings of the Enquiry Officer are supported by evidence and are findings of the fact and the same cannot be assailed as perverse. The petitioner who is a Cashier in Bank which is a Public Finance Institution cannot contend that his past record was good and on that ground he cannot claim any right to commit a fraud on the bank. The charges levelled against the petitioner are serious in nature and he being a Cashier of the bank who is responsible for the amount deposited by the customer, under such circumstances, the punishment of compulsory retirement cannot be said to be harsh or excessive and the punishment is fully justified and it cannot be questioned before this Tribunal.

9. But again the learned counsel for the petitioner contended the material witness viz. the complainant J. Rajakannu was not examined and, therefore, the non-examination of material witness has caused considerable prejudice to the petitioner, which amounts to violation of principles of natural justice and he relied on the ruling reported in 2007 W.L.R. PAGE 7, B. PADMAIAH Vs. UNION OF INDIA & FIVE OTHERS wherein the Division Bench of the Madras High Court has held in the case "the material witness R was not examined and non-examination of the material witness R, who is the complainant and non-supply of the copy of the report to the Dy. Commandant which was very much relied on by the Enquiry Officer amounts to violation of principles of natural justice and further held though normally the Court would not interfere with the finding of fact recorded in the domestic enquiry, if the finding of guilty is perverse, it would be amenable to judicial scrutiny. If a decision is arrived at on the basis of no evidence or evidence on which no reliable or reasonable person would act, such decision would be perverse. The failure to provide an opportunity to the petitioner to test the veracity of the complaint made against him has resulted in deprivation of right of the petitioner amounting to gross violation of principles of natural justice and the entire disciplinary proceedings are hence vitiated." The learned counsel relied on the ruling reported in this case has argued that the Enquiry Officer based on the complaint has come to conclusion in this case that the charge against the petitioner was proved but the complainant was not examined in this case and the petitioner has no opportunity to test the veracity of the complainant to give such a complaint against him. Under such circumstances, as stated by the Hon'ble High Court, it amounts to gross violation of principles of natural justice and the enquiry proceedings are vitiated.

10. But as against this, the learned counsel for the Respondent contended no doubt the Enquiry Officer has relied on the complaint made by the customer J. Rajakannu but he has not based his finding only on the complaint, he has come to the conclusion that the charges framed against the petitioner was proved on all the facts mentioned in the report, not only on the complaint but also oral evidences and the documentary evidences which clearly establish all the charge framed against the petitioner has been proved. No doubt, the complainant was not examined but on that single issue alone it cannot be said that there is no principles of natural justice. The Enquiry Officer has given valid reason for coming to the conclusion that the charges has been proved against the petitioner. Under such circumstances, it cannot be said that the enquiry is vitiated. Further, he argued the petitioner was employed as a Cashier and he was expected to show utmost honesty, integrity in dealing with the customer. The petitioner in this case retained the amount deposited by a customer with him with a criminal intent to misappropriate the same and thus lowered the image of the Respondent Bank and acted in a manner highly prejudicial to the interests of the bank. Thus, he has given a story that the amount has been immediately returned to the complainant. There is no proof or satisfactory evidence to establish this fact, neither the Enquiry Officer nor the Disciplinary Authority can presume

or assume this fact with any satisfactory evidence, under such circumstances, the story given by the petitioner is a cock and bull story. On the other hand, the temporary misappropriation made by the petitioner has been established with documentary proof. Therefore, it cannot be said that the findings given by the Enquiry Officer is perverse.

11. I find much force in the contention of the learned counsel for the Respondent because though the petitioner has shown some contradictions in the evidences given by the customer's father but on that ground it cannot be said that the story given by the petitioner is a true one. The petitioner has not given any satisfactory evidence for what purpose he has made the entries in the ledger and also in the Pass Book while it is not his duty to record the same in the ledger. Further, even while he has credited the payment in the ledger, he has not put the correct date. This itself clearly shows that he has with an intent to commit a criminal act has made a fictitious entry in the ledger while he has not made any entry in the rough cash book. Therefore, I find the findings of the Enquiry Officer cannot be said as perverse and I find this point against the petitioner.

Point No. 2

The next point to be decided in this case is to what relief the petitioner is entitled to?

12. In view of my foregoing findings that the action of the Respondent Management in imposing the punishment of compulsory retirement for the misconduct committed by the petitioner is legal and justified. I find that the petitioner is not entitled to any relief.

13. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 9th January, 2008).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Petitioner	:	None
For the II Party/Management	:	None

Documents Marked :—

On the petitioner's side

Ex. No.	Date	Description
—Nil—		

For the II Party/Management

Ex. No.	Date	Description
Ex.M1	03-10-2001	Report of I. Mohammed Gobil, Sr. Manager (Investigation Officer)
Ex.M2	23-09-2001	Complaint of P. Jayaraman
Ex.M3	27-09-2001	Statement of P. Jayaraman
Ex.M4	27-09-2001	Statement of J. Rajakannu
Ex.M5	27-09-2001	Statement of K. Annamalai
Ex.M6	27-09-2001	Statement of P. Dharmalingam
Ex.M7	27-09-2001	Statement of C. Jeyachandran
Ex.M8	27-09-2001	Statement of C. Jayaram

Ex. No.	Date	Description	Ex. No.	Date	Description
Ex.M9	27-09-2001	Statement of R. Murugesan			his telegram dated 21-01-2002
Ex.M10	27-09-2001	Statement of B. Durai	Ex.M28	01-02-2002	Letter from Enquiry Officer to petitioner postponing the enquiry to 18-02-2002 as requested by the petitioner by his letter dated 30-01-2002
Ex.M11	-	Savings Bank A/c No. 3914 Pass Book of Rajakannu			
Ex.M12	-	S.B. Ledger sheet relating to S.B. A/c No. 3914 of Rajakannu	Ex.M29	18-02-2002	Proceedings of enquiry.
Ex.M13	02-05-2001	Pay-in-slip of Rajakannu for Rs. 20,000 SB A/c No. 3914	Ex.M30	05-03-2002	Telegram from petitioner to Enquiry Officer praying to postpone the enquiry for 15 days.
Ex.M14	-	Respondent Bank Polur Branch Attendance Register for May 2001			
Ex.M15	-	Cash/Scroll Register for 02-05-2001	Ex.M31	06-03-2002	Letter from Enquiry Officer to petitioner permitting 7 days extension of time and fixing the enquiry on 12-03-2002 and advising the petitioner to be present in the enquiry and also confirming his (enquiry officer's) telegram dated 05-03-2002 to petitioner informing the date of enquiry on 12-03-2002
Ex.M16	-	Respondent Bank Polur Branch rough cash book for 02-05-2001			
Ex.M17	29-10-2001	Show cause notice to Petitioner	Ex.M32	11-03-2002	Telegram from petitioner to Enquiry Officer to postpone the enquiry for 15 days.
Ex.M18	09-11-2001	Letter from petitioner requesting 30 days time to reply to show cause notice dated 29-10-2001	Ex.M33	11-03-2002	Letter from Chief Manager of the Respondent Bank to the petitioner directing him to appear for medical examination on 20-03-2002.
Ex.M19	15-11-2001	Letter from Respondent to Petitioner granting permission to submit his reply before 30-11-2001 from the show cause/suspension notice dated 29-10-2001	Ex.M34	11-03-2002	Letter from Chief Manager of the Respondent Bank to the Director, Kumaran Hospital, Vellore requesting to examine the petitioner and send his report.
Ex.M20	29-11-2001	Letter from petitioner to Respondent requesting 30 days time from 30-11-2001 to reply to the above show cause notice dated 29-10-2001			
Ex.M21	01-12-2001	Letter from Respondent to petitioner granting time to submit his reply on or before 15-12-2001	Ex.M35	19-03-2002	Letter from petitioner to Respondent/Enquiry Offr. requesting to postpone the enquiry on the ground that his defense representative has fallen ill and admitted in hospital and praying to hold the enquiry after the defense representative recovers and reports for duty
Ex.M22	14-12-2001	Reply of petitioner to the show cause notice dated 29-10-2001			
Ex.M23	08-01-2002	Charge sheet issued by Respondent to the petitioner	Ex.M36	02-04-2002	Letter from Enquiry Officer to petitioner that the enquiry will be held on 18-04-2002 and advising him to be present in the enquiry by arranging an alternate defense representative as the enquiry has been postponed already for 5 times at his request
Ex.M24	08-01-2002	Letter from Respondent to Mr. K. Balan appointing him as Enquiry Officer			
Ex.M25	08-01-2002	Letter from Respondent to Mr. K. Hari Raj appointing him as Presenting Officer	Ex.M37	20-04-2002	Letter from Enquiry Officer to
Ex.M26	15-01-2002	Letter from Enquiry Officer to petitioner fixing the enquiry on 22-01-2002 and advising the petitioner to be present at the enquiry with his defense representative with his evidence.			
Ex.M27	22-01-2002	Letter from Enquiry Officer to petitioner postponing the enquiry to 01-02-2002 as requested by the petitioner by			

Ex. No.	Date	Description	Ex. No.	Date	Description
		petitioner considering the request of the defense representative and postponing the enquiry to 29-04-2002 and advising him to be present with his defense representative			the Bank in reply to petitioner's letter of 22-10-2002 permitting the petitioner to submit his comments before 04-11-2002 at his request
Ex.M38	29-04-2002	Proceedings of enquiry	Ex.M54	04-10-2002 (Received on 7-11-2002)	Comments of the petitioner on the findings of the Enquiry Officer
Ex.M39	13-05-2002	Proceedings of enquiry	Ex.M55	11-01-2003	Second show cause notice from Disciplinary Authority to petitioner proposing punishment of "compulsory retirement" and calling for his reply within 15 days
Ex.M40	14-05-2002	Proceedings of enquiry			
Ex.M41	16-05-2002	Letter from Enquiry Officer to petitioner advising him to be present in the enquiry on 29-05-2002 for cross examination of Jayaraman and K. Annamalai - enclosing copy of enquiry proceedings dated 13-05-2002 and 14-05-2002	Ex.M56	30-01-2003	Letter from Chief Manager of the Bank advising petitioner to submit his reply to S.S.C. Notice before 10-02-2003
Ex.M42	16-05-2002	Letter from Enquiry Officer to P. Jayaraman requesting him to appear for cross examination on 29-05-2002	Ex.M57	30-01-2003 (Recd. On 31-1-2003)	Letter from petitioner to respondent requesting 15 days time from 06-02-2003 to submit reply to S.S.C. Notice
Ex.M43	16-05-2002	Letter from Enquiry Officer to K. Annamalai requesting him to appear for cross examination 29-05-2002	Ex.M58	03-02-2003	Letter from Chief Manager of the Bank permitting the petitioner to submit reply to S.S.C. Notice before 20-02-2003
Ex.M44	29-05-2002	Proceedings of enquiry - (Enquiry concluded)	Ex.M59	15-2-2003 (Recd. On 19-2-2003)	Letter from petitioner to respondent seeking one more month's time to given his reply to the S.S.C. Notice
Ex.M45	10-06-2002	Summing up of Presenting Officer.	Ex.M60	10-04-2003	Letter from Chief Manager of the Bank to petitioner advising him to submit his reply to S.S.C. Notice before 19-04-2003
Ex.M46	08-07-2002	Letter from Enquiry Officer to the petitioner advising him to submit summing up before 16-07-2002	Ex.M61	19-04-2003	Letter from petitioner to respondent requesting 15 days time to submit his reply
Ex.M47	Nil	Summing up of the defense representative - received on 17-07-2002.	Ex.M62	28-04-2003	Order of Respondent confirming the punishment of "compulsory retirement" proposed by letter dated 11-01-2003
Ex.M48	30-09-2002	Letter from Enquiry Officer enclosing his findings dated 30-09-2002.	Ex.M63	09-06-2003	Letter from petitioner to General Manager/Appellate Authority appealing against the order dated 28-04-2003 and requesting personal hearing
Ex.M49	01-10-2002	Letter from Disciplinary Authority to petitioner enclosing the findings of the Enquiry Officer and calling for his comments - to reach before 16-10-2002	Ex.M64	04-12-2003	Proceedings of personal hearing before the General Manager (I.A.E.) Appellate Authority
Ex.M50	15-10-2002	Letter from petitioner to Disciplinary Authority requesting one week time from 17-10-2002 to submit his comments	Ex.M65	17-05-2004	Letter from Chief Manager of the Respondent Bank to the petitioner enclosing orders of Appellate Authority dated 12-05-2004 confirming the punishment awarded.
Ex.M51	22-10-2002	Letter from petitioner stating that he will submit his reply before 04-11-2002			
Ex.M52	24-10-2002	Letter of Chief Manager of the Bank in reply to petitioner's letter dated 15-10-2002			
Ex.M53	29-10-2002	Letter from Chief Manager of			

नई दिल्ली, 15 अप्रैल, 2008

U.O. 1043.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साऊथ-ईस्टर्न रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या 36/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-4-2008 को प्राप्त हुआ था।

[सं. एल-41011/28/1997-आई.आर. (बी-1)]

[सं. एल-41011/09/1999-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 15th April, 2008

S.O. 1043.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of S.E. Railways, and their workmen, received by the Central Government on 15-4-2008.

[No. L-41011/28/1997-IR (B-1)]

[No. L-41011/09/1999-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI A. N. YADAV PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP 36/2002

Petitioner : The General Secretary, Parcel Porter Sanghatana S. E. Railway Nagpur Division, Motibagh Nagpur 440012

Party No. 1

Versus

Respondent : (1). The Divisional Commercial Manager S.E. Railway, Nagpur.

AWARD

Date the 28th March, 2008

The Central Government after satisfying the existence of disputes between The General Secretary, Parcel Porter Sanghatana, Motibagh party No 1 The Divisional Commercial Manager Party No 2 referred the same for adjudication to this Tribunal vide its order

No. L-41011/28/1997-IR (B-1) [L-28-08-1998 under clause (d) of sub Section (1) and sub Section (2A) of Section 10 of the Industrial Dispute Act, 1947 [14 of 1947] with the following schedule:-

2. "Whether the 60 parcel porters (as per list attached) engaged by the divisional Manager S.E. Railways Nagpur are "workmen" Under the provision of Sec.2 (S) of The Industrial Disputes Act, 1947? If so whether these 60 parcel porters are to be provided Eight hours work daily regularly and declare Railway "Employees"? If so to what relief the work man are entitled?"

3. Again the Central Government after satisfying the existence of disputes between The General Secretary, Parcel Porter Sanghatana, Motibagh party No 1 and The Divisional Commercial Manager Party No 2 referred the same for adjudication to this Tribunal vide its order No. L-41011/9/99-IR (B-1) [L-16-08-1999 under clause (d) of sub Section (1) and sub Section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) with the following schedule:-

4. "Whether 151 parcel porters (as per list attached) engaged by the divisional Manager S. E. Railway Nagpur are "Workmen" Under the provision of Sec.2 (S) of The Industrial Disputes Act, 1947? If so to what benefit and status they are entitle to and from what date?"

5. It seems that both the reference were sent to C.G.I.T. Jabalpur where they respectively were numbered as 203/98 and 287/99 and consequent upon the establishment of this tribunal were sent to Nagpur. Considering their similarity of subject matter and being between the same parties they were consolidated by giving common number as 36/2002. After recording common evidence and arguments I am passing a common Award. On receipt of the notice, 60 and 151 parcel porters as per list, through their Union filed the statement of claim with the following contentions.

6. That they work at various Railway stations in Nagpur Division continuously, barring some artificial breaks, directly under the administrative control of the S.E. Railways since 1994. Each worker has completed more than 240 days every year still the Management did not provide the job security and benefits of regular employee. The Management enlisted and appointed them as per selection process on interview and posted them at various places for loading and unloading parcels, opening and resealing the wagons, carrying the parcels from station to the wagons and from wagons to stations they being under the administrative control. Its officer supervises their work. Earlier the Pay Master of Management used to pay their salary on monthly basis. Now it is paying at Central Govt. rate as per Minimum Wages Act under regular pay orders.

The work is permanent and of perennial nature Union has raised demand to absorb them as regular parcel porters to the stations of their working. However the management is not treating them at par with the casual labours and illegally treating them as licensed porters whose service conditions are totally different. They are performing similar duties of the parcel porter Hamals who are the regular railway employees in the pay scale of Rs. 750-940 (RPS/Rs. 250-3200(VPS). They were initially given work daily in alternative months. Later on the working hours were increased to 8 by reducing their pay without disturbing others pay. The respondent has started the process of filling the vacancies of Safaiwala and other group 'D' (Class-IV) of other Departments. It is violative of the guidelines of the Ministry. They finely pray to declare them as railway Employee, direct the management to provide 8 hour, to grant difference of wages from 1994 and regular them by giving temporary status and regular scale of pay paid of Group D on the post of Safaiwala as per their Qualification and Suitability.

7. The management while resisting, claim in Written Statement contended that though they are working as parcel porters in fact they were engaged as licensed porters, on payment of license fee, for carrying the luggage of the passengers by issuing special notification. Each petitioner executed an agreement which are the terms and condition of their services. They were neither enlisted nor interviewed. Thus they are not parcel porters or even workers. They being licensed porters get the remuneration from the respective passengers at the rate fixed by it. The Minimum wages Act is not applicable to them. They are given out door medical treatment and leave facilities only. In exceptional cases, on their requests they were transferred also but it has no effect on their status. The incompetent officers of the Management have issued them experience certificates which will not confer any right on them. Thus the managements pleads that the petitioners are neither the workman nor entitled for any claimed relief. They prayed to dismiss the reference by answering it in the negative.

8. Heard both advocates for the parties, perused the evidence, documents and written notes of their arguments. The management claims that the petitioners are licensed porter appointed by it without following the recruitment process for carrying luggage of the passengers at the fixed rates, paid by the passengers directly. Thus according to it they are coolies, in a red uniform having, badges permitted to work on accepting the licensed fees and they are not their workmen. For these purpose it is harping on the agreements executed by the petitioners and allotment of the duties by rotation. However the evidence is totally against management. No doubt both the management witnesses say that they were engaged as licensed porters but it is neither cogent nor reliable to accept. There is basic difference in both posts because the licensed porters are the licensees permitted or given the

licenses to carry the luggage of the passengers at the rate fixed by the railway administration after accepting the prescribed amount directly from the passengers. The railway administration provides them uniform and Badge who are popularly known as coolie. They are not the workman of the railways but the licensees paying to the railway while the parcel porters are the workman getting salary or particular amount as remuneration, may be on daily basis, from railway. The work of the parcel porters is to carry the parcels from and to the office and load and unload it in the wagons. Thus they do the work of unloading also and carrying the parcels from office the wagon to the office as per directions of the railway administration for which they are paid by railway.

9. If the evidence is scanned and tested, on the above basis, no body will dare to say that they are not the workman of the railway. They were appointed by calling applications, after screening tests and interviews. The petitioner's witness, who was the member of the selection committee, has admitted to that effect. They were never given badges, buckles and uniform. Their presence was marked in the Muster roll. Initially they were given four hours duty later on it was increased. They were working under direct control of the Railway administration. Similar thing regarding the work they were asked to perform the work like handling the parcels including loading unloading and even opening and resealing the wagons. The Most important and undisputed thing is that the Railway was paying wages to them on monthly basis through supervisors, station masters instate of recovering the license fee from them. They were paid as per Minimum Wages Act. In case of licensed porters there is no question of paying any remuneration by Railway. No evidence is produced to show that petitioners have paid a license fee. Beside it there are examples of even effecting their transfers by the railway which can not be a event in case of licensees. In fact the stand of the respondent management is not certain about the work provided to the petitioners but it is seems undisputed that they were handling parcels. Had they been appointed as licensee of coolies they were not even entitled to touch the parcels. No doubt they have signed the agreements separately but they will not prove them as licensees. On the contrary they are incomplete and seem to have obtained only to avoid their rights. They were provided with identity cards as parcel Porters and experience certificates. It is contended on behalf of the management that the certificates are not issued by its incompetent officers, alleging thereby that they are bogus. But no evidence is adduced to show that any action has been taken against erring officer, even their names are not declared much less about their incompetence. In fact for issuing licenses to the coolies there was no need of effecting recruitments process on publishing a special notification as issued on 08-08-1994. They can not be called as coolies as claimed by the management.

10. An attempt has been made in the evidence by Shri Murthi to show that to the petitioners were favoured by the management by asking them to work as parcel porters. However it is not the case or the defence of the Management. There would again a question as to how the discrimination was made leaving other coolies. Another attempt is made by the management with a view to avoid the liability by submitting that they were not working as casual labours, therefore they are not entitled for regularization. I have already concluded that they are the workmen of railway and have completed 240 days continuous service. The management has admitted that the petitioners were paid the wages as per notification of the Labour Ministry. If they were licensee what was the reason for paying them. One more theory is introduced that they were absconding and therefore their services were terminated. In one breath it is saying that they were not their workmen and in another breath it is contending that they were terminated. If they were not the workmen then how they were terminated is the question. It falsifies the stand of Railway Management.

11. It appears that in 1994 Railway has started the recruitment of Parcel Porters by issuing special notification after cancelling the earlier practice of taking the work of parcel porters through private contractors. However when the petitioners raised demand for job security, the Railway Administration started harassing them. The evidence clearly shows that they were appointed as parcel porters and were workman of the railway right from the day of their respective appointments. They are appointed in the year 1994-1995 and undisputedly each of them have completed more than 240 days. The nature of their work is purely manual and unskilled. They will have to be treated as workmen as defined w/s 2 (s) of I.D. Act 1947.

12. It seems the petitioner Union has claimed 60 and 151 as order Nos. L-41011/28/97-IR (B-1) Dtd. 28-08-1998 and Order No. L-41011/9/99-IR (B-1) Dtd. 16-08-1999 respectively total 211 parcel porters are entitled for the regularization. Even the above referred orders of the Central Govt. of India has also given the similar number of the parcel porters. The list of the 60 petitioners in the first order is in conformity of number given by the petitioner. However the actual number as per appended lists with the Order No. L-41011/9/99-IR (B-1) Dtd. 16-08-1999 is less by 9 parcel porters it does not confirm the claimed number of 151 porters. It comes 143 only totalling to 203 in all. The petitioners have given the lists of the porters working at particular stations as under :—

(1) Kamthi Rly. Station, 16 parcel porters, (2) Bhandara Road 09, (3) Tumsar road 11, (4) Tiroda 04, (5) Gondiya 59, (6) Rajnandgaon 08 and (7) Itwari Rly Station 36 parcel

porters. Thus the total comes to 143 porters besides the 60 porters /petitioners in reference No. 203/1998 making grand total of 203 parcel porters.

13. The evidence is clear enough to show that the petitioners were regularly working and the work is also of perennial nature. Since they have completed more than 240 days they are entitle to regularization. No doubt they were provided with the work for 4 hours on each day and some times more than it but it was deliberate attempt to deprive them from regularization. It is not at all a case of the railway that their appointment was of some other cadre. In my view though they were working 4 hours or some times for 8 hours they were on daily wages and are entitled for regularization and declaration that they are the employees of railways.

14. So far as back wages are concern the petitioners have worked as per directions of the authority and they are already paid as per their working hours. It is pertinent to note that in remaining time they were not prohibited to do their work. In fact they were working in addition to the regularly appointed parcel porters hence in my view they are not entitled to back wages as prayed. I proceed to pass the following order.

ORDER

The respondent party No. 2 The Divisional Commercial Manager S.E. Railway Nagpur is here by directed to —

1. Regularize the 60 petitioners as per list submitted Reference No. 203/1998 along with order No. L-41011/28/1997-IR (B-1) Dtd. 28-08-1998, and 143 petitioners giving them temporary status and regular pay scale of Group D at par with the regularly appointed parcel porters as per their qualification and suitability, treating them as railway employee.
2. To fix their pay in the above regular cadre from the date of their respective appointments and giving the regular increments pay the salary with prospective effect from the date of notification of this award.
3. The lists of 60 and 143 parcel porters appended along with the above numbered orders of the Ministry shall form part and parcel of this award.

Dated : 28-03-2008

A. N. YADAV, Presiding Officer

पार्सल पोर्टर संघटना
द. पूर्व रेलवे, नागपुर डिवीजन

क्र.सं.	नाम	पता	जात	डिप्टी की तारीख	स्टेशन
1	2	3	4	5	6
1.	विजय नरधु निनावे	तुमसर रोड देवाडी गांधीवाड	ओ बी सी	01-11-94	टी.एम.आर
2.	मोहन नारायण कुराडे	मु. रोहना,पो.बेटाला त. मोहाडी, जि. भंडारा	ओ बी सी	01-12-94	टी.एम.आर
3.	सुरेश भानिक नवभरे	मु. गोबरवाडी, पो.गोबरवाडी, त. तुमसर, जि. भंडारा	ओ बी सी	01-12-94	टी.एम.आर
4.	आनंदराम रामाधर वर्मा	नागतराई, पो. जटकरनार जि. आरजेएन	ओ बी सी	15-11-94	टी.एम.आर
5.	बुधराय निलकंठ ठोपकर	नेहरु वाड तुमसर, [देवाडी]	ओ बी सी	01-12-94	टी.एम.आर
6.	सतीश चिभुलाल साहारे	संतोषनगर, गांधीचौक, नागसेनवन डा.अंबेडकर मार्ग, नागपुर	एस. सी	1-11-94	टी.आर.ओ
7.	सुभाष रतीराम ईश्वरकर	तुमसर रोड, सुभाषनगर, देवाडी, सुभाषवाड	ओ बी सी	11-04-94	जी.
8.	महादेव सोविंदा माने	गांधीवाड तुमसर रोड देवाडी	ओ बी सी		आर.जे.एन.
9.	डमेश भजनदास राजभिये	नेहरुवाड,वरठी,मु.पो. वरठी [भंडारा रोड] त. मोहाडी, जि. भंडारा	एस. सी	08-06-95	जी
10.	वासुदेव सहादेव बान्ते	मु. गोपेवाडा, पो. शहापुर त. जि. बी आर डी.	ओ बी सी	13-03-95	जी
11.	विसक नरधुजी लांबेवार	मु. घोरपड, त. कामठी, पो. अजनी रडके, जि. नागपुर	एस. सी	01-11-94	टी.आर.ओ
12.	राजेश वासुदेव नागपुरे	मु. तुमसर रोड, [देवाडी] त. पो. तुमसर रोड, जि. भंडारा	ओ बी सी	9-12-94	टी.आर.ओ
13.	मकराव कुलपत सेलोकर	मु. माढक पो. माडगी, त. तुमसर, जि. भंडारा	ओ बी सी	9-11-94	आय.टी.आर
14.	महादेव रामचंद्रजी बारसकर	रा. माढक, पो. माडगी, त. तुमसर, जि. भंडारा	ओ बी सी	8-11-94	जी.
15.	अरुण शामराव शेवडे	मु. माढक, पो. माडगी त. तुमसर, जि. भंडारा	ओ बी सी	8-07-95	जी.
16.	राजेश जंगलुजी भेआम	मु. चंद्रमणी नगर,कामठी, त. कामठी, जि.नागपुर	एस. सी.	01-11-94	टी.आर.ओ
17.	रविंद्र बलीराम डोक	मु. कृषिनगर,[सुलेझरी] पो. त. नागभीड, जि. चंद्रपुर	एस.टी.	04-04-95	जी
18.	भारत दवडुजी बुधे	मु. खेरवाडा, पो.माडगी त. तुमसर, जि. भंडारा	ओ बी सी	23-12-94	जी.
19.	रामचंद्र माहादेव जनबधु	मु. ईसाखनी विनोबा नगर, पो. सी.आर.पी.कॉम्प, त. जि. नागपुर	एस. सी.	01-11-94	टी.एम.आर

1	2	3	4	5	6
20.	ब्रम्हानंद मातुजी भेश्राम	मु. माडवी, पो. कचलेवाडा, त. तिरोडा, जि. भंडारा	ओ बी सी	11-04-95	जी.
21.	अशोक श्रीराम श्यामकुवर	मिलींदनगर, नागपुर	एस. सी.	1-11-94	टी.आर.ओ.
22.	संजय हिरालाल यादव	मु. मि.डी.व्ही.पाध्ये बंगला अजय बंगला, गोलछा बिल्डींग, सिव्हील लाईन नागपुर, वार्ड नं. 87	ओ बी सी	01-02-95	टी.एम.आर.
23.	श्रीराम हरी नवधरे	इतवारी रेलवे कालोनी, पोर्ट लाईन, क्वा.नं. 13/4 नागपुर	ओ बी सी		जी.
24.	विकास निताराम धामरडे	अंबेडकर वार्ड गोंदिया C/o समीर किराणा स्टोर	एस. सी.	01-09-95	जी.
25.	कोटेश्वर गोपालराव जिरे	C/o कृष्णाका इनुमताराव, क्वा. नं. 32/2, मु.पो. तुमसर रोड, त. तुमसर रोड	ओ बी सी	01-11-94	टी.एम.आर.
26.	प्रकाश दुर्गोधन तिजारे	मु. पो. पोलीस, त. मोहाली, जि. भंडारा	ओ बी सी	01-12-94	टी.आर.ओ.
27.	संजय यशवंत अतकरी	मु. पो. पालोरा, त. माहोली, जि. भंडारा	ओ बी सी	01-12-94	टी.आर.ओ.
28.	पि. विजय शेखर राव	C/o पि. जोगेश्वर राव सुगतनगर, हाऊसिंग बोर्ड कॉलोनी क्वॉ. नं. एम.आय.जी. 88, नारी रोड पो. उप्पलवाडी, नागपुर	ओ बी सी	13-02-95	जी.
29.	ज्ञानेश्वर हरीदास राकत	खलाशी लाईन, शिवमंदिर के पास, नागपुर	एस. सी.	27-12-95	जी.
30.	उमाशंकर आशाराम शेन्डे	रा. परसवाडा, पो. माडगी, त. तुमसर, जि. भंडारा	ओ बी सी	08-11-94	जी.
31.	विनोद जगदीश भेश्राम	हंसराटोली, पो. मिटेपाणी ता. तुमसर, जि. भंडारा	एस.सी.	03-07-95	जी.
32.	ब्रम्हानंद नागो बुरडे	मु.पो. पालोरा, ता. मोहाली, जि. भंडारा	ओ बी सी	01-12-94	जी.
33.	उमराव महादेव चौधरी	मु. सुकली [देवाडी] पो. माडगी त. जि. भंडारा	ओ बी सी	10-04-95	जी.
34.	कृष्णा सहसराव कडव	मु. सैरलाजी, पो. परसवाडा त. तिरोडा, जि. भंडारा	ओ बी सी	01-12-94	टी.एम.आर.
35.	प्रकाश नारायण तिजारे	मु. कोरडी, ता. मोहाडी, जि. भंडारा	ओ बी सी	05-12-94	टी.आर.ओ.
36.	दिनेश बाजी राव वाघमारे	मु. सोनुली, पो. वरवी, ता. मोहाली, जि. भंडारा	ओ बी सी	18-10-94	बी. आर. डी.
37.	महेंद्र पादुरंग सिंगनबुडे	मु. मानेगांव, पो. पिपलगांव ता. साकोली, जि. भंडारा	ओ बी सी	01-12-94	बी.आर.डी.
38.	प्रकाश प्रेमलाल भेंडे	ईतवारी रेलवे स्टेशन, पोर्टखोली, नागमंदीर ब्लॉक नं. सी/25/6 नागपुर	एस. टी.	01-11-94	टी.आर.ओ.
39.	बंडय रामाजी मानवटकर	मु. डुमरी, [कला], पो. खेडाता, ता. पारशिवनी, जि. नागपुर	एस. सी.	01-11-94	टी.आर.ओ.
40.	दिपंकर जंगली भेश्राम	मु. पो. करटी [बुज], त. तिरोडा, जि. भंडारा पिन नं. 441911.	एस. सी.	10-04-94	टी.आर.ओ.
41.	प्रकाश एकनाथ गांवडे	बेलौशाप रेलवे कालोनी, जीएल 58/2 पो. बंक्षनबाग, नागपुर	एस. सी.	01-01-95	टी.एम.आर.

पार्सल पोर्टर संघटना
द. पूर्व रेलवे, नागपुर डिवीजन

क्र. सं.	नाम	पता	जात	डियूटी की तारीख	स्टेशन
1	2	3	4	5	6
1.	दिपक, नारायण, राऊत.	बेलीशॉप रोड कॉलोनी मोतीबाग नागपुर ब्या. नं. 9171116 पो. बेंकनबाग	एस.सी.	05-01-95	बी
2.	अरूण मधूकर, बारसामडे	बसंत नगर चातडा इंजिनियरिंग के पीछे गोहाणा आजाद वाई	ओ. बी.सी.	20-12-94	जी
3.	बिस्म कवडू ठाकुर	मु. माडल त. तूमसर पो. देवहाडी जिला भंडारा	ओ. बी. सी;		टी आर ओ
4.	मदन, बालकरण, खेरबा	जय पोले नगर पावर हाऊस के सामने रोण्डे के घर के पास मोहरीबाग गेट नागपुर पो. कमाल चौक.	एस. टी.	01-12-94	बी आर डी
5.	निराम, सुबईराम जयखाकत	सुगम नगर नारी रोड इण्डियानावाडी नागपुर 26 पो. तुम्पनवाडी	एस. सी	02-02-95	जी
6.	नरेश, गोपाल, पटोरे	यशोदेरा चौक फरवाना किराना स्टोर्स प्लॉट नं. 605 पो. इण्डियानावाडी नागपुर 26	ओ. बी.सी.	13-4-95	आर जे एन
7.	पडिवा, पुरुषोत्तम, राव	एल. आग. जि. 96 सुगत नगर नियर रोड पो. इण्डियानावाडी नागपुर 26	ओ. बी.सी.	01-02-95	जी
8.	धसंत, यादव, बारसागरे	C/o हरीचंद बारसागडे चावडा इंजिनियरिंग के पीछे बसंत नगर हागवाडा वाई रोदीयरपि अंगरा त. गोदीया पो. गोदीया	ओ. बी. सी.	26-01-95	जी
9.	रमेश देवंगण	साई दाल मिल रवि कृष्ण नगर नागपुर	ओ. बी.सी.		जी
10.	शिवन, हेमराज, सारुवने	मु. देवहाडी तुंगसर रोड नेहरू वाई त. तुंगसर जिला भंडारा पो. देवहाडी	ओ. बी.सी.	01-11-94	टी एस आर
11.	मित्रिन्द जयराम, धौसले	162 बॉक्स कॉलोनी फामकी रोड नागपुर त. जि. नागपुर पो. जरियाका	एस. सी.	10-01-95	बीआरडी
12.	राकेश, चरण, डाहाणे	इंदीरा, गम मोहोतहता नागपुर 17	एस.सी.	2-10-95	जी
13.	मंगेश नाथा, इफे,	रमाई नगर नारी रोड नागपुर पो. इण्डियानावाडी	एस. सी.	27-07-95	जी
14.	गौतम, गोविन्दराव ठाकुर	अदुवा नगर नारा रोड वाई नं. जरियाका नागपुर पो. जरियाका	ओ. बी.सी.	01-11-94	जी
15.	मनिष, महेशचंद, सक्सेना	एफ. आग. जि. 96 सुगम नगर नियर रोड पो. इण्डियानावाडी नागपुर	ओ. बी.सी.		टी एम आर
16.	राधेशाम, जिताराम, बानने	देवहाडी नहेरू वाई त. तुंगत जि. भंडारा पो. देवहाडी	एनटी	01-11-94	टी एम आर
17.	कैलास, सकनु, माधूले	मु. देवहाडी आंबेडकर वाई तुंगसर रोड जि. बांदारा पो. देवहाडी	ओ. बी.सी.	01-11-94	टी एम आर
18.	नृगेश्वर न्यारेलाल शाहू	मोतीबाग रेलवे कॉलोनी एल/481/1 नागपुर पो. बेंकनबाग			टी एम आर
19.	महेन्द्र, सुखराम यादव	बेलीशॉप रेलवे कॉलोनी मोतीबाग नागपुर पो. बेंकनबाग नागपुर	एस. टी.		जी

ANNEXURE-C

LIST OF THE PARCEL PORTER WORKING AT KAMPTEE RAILWAY STATION

S. No.	Name and Address	Date of Appointment.	Age	Cast	Sig.
1	2	3	4	5	6
1.	Sri. Sunil Kumar Hariprasad Yadav, Rly. Qtr. No. C 78/1 Motibagh Nagpur.	16 Nov. 1994	26	OBC	
2.	Sri. Anun Ramlal Wanjari K. K. Nagar Ramtek	1 Oct. 1994	25	OBC	
3.	Sri. Jagdish Sewarai Thaware, Rly. Qtr. No. L-7/6 K.K. Nagar Ramtek.	1 Oct. 1994	30	SC	
4.	Sri. Rajesh Samarth Bansod Rly. Qtr. 77/7 Motibagh Nagpur	1 Jan. 1995	26	SC	
5.	Sri. Fulchand Arjun Rahgadaie, Rly. Qtr. 38/5, Itwari Near Rly. Hospital. Ngp	1 Oct. 1994	29	OBC	
6.	Sri. Mahendra Daulatrao Ramtek, L-9G II B-21/247 Hudkoo Colony Nara Road Jaripatak, Nagpur.	16 Oct. 1994	34	SC	
7.	Sri. Nagesh Prahlad Gajbhiye, Sesh Nagar Khare Road Hasonbagh Nagpur	16 Oct. 1994	28	SC	
8.	Sri. Sanjay Mahadeo Jinde. Rly. Qtr. No. CTL/39/17 Hamal Kholi, Itwari, Lakadganj. Ngp.	16 Oct. 1994	26	SC	
9.	Sri. Rajesh Kesho Washik Rly. Qtr. No. 170/3 Motibagh, Nagpur.	16 Oct. 1994	24	SC	
10.	Sri. Radhesham Kallo Gomdhar, Khishan Colony Near Mandhir Bezonbagh. Ngp.	16 Oct. 1994	25	SC	
11.	Sri. Hanstraj Khandekar Santish Vdo Sutting Bada Indora Bhima Chowk Nara Road, Nagpur.	16 Oct. 1994	27	SC	
12.	Sri. N. Srinivasa Rao C/o N. L. Naidu, S.E. Rly. Qtr. No. GL 57/4, Bezanbagh (Post) - 440004. NGP.	25 March 1995	29	OBC	

1	2	3	4	5	6
13.	Devendra Bhagwandas Rangari Rly. Qtr. No. 172/2, Mount Road Nagpur.	16 Oct. 1994	29	SC	
14.	Sri. Arun Baburao Waghade Gandhi Ward Deawadhi P.O. Tumsar Road Tumsar	16 Oct. 1994	29	O.B.C.	
15.	Sri. Deepak Nagorao Kathane Empress Mill's Colony Block No. 106 Bezan Bagh, Nagpur	16 Oct. 1994	34	SC	
16.	Sri. Satnam Singh S/o Rattan Singh Motibagh Qtr. No. 171/1 Nagpur-440004	16 Oct. 1994	33	U.R.	

ANNEXURE-C

LIST OF THE CASUAL PARCEL PORTER WORKING AT BHANDARA ROAD RAILWAY STATION S. E. RLY.,
NAGPUR DIVISION

S. No.	Name	Father name	Date of Birth & Age	date of Appoi.	Address	Caste	Qualification	Extra qualification	Signature
1	2	3	4	5	6	7	8	9	10
1.	Nandkishor Chiman Gajbhiye	Chiman Gajbhiye	32		Nandkishor Chiman Gajbhiye At+PO.Ratanwady, Tha. Gondia Di. Bhandara (Maharashtra)	SC.			
2.	Vikas Bakaram Fendre	Bakaram Fendre	30		Vikas B Fendre, OBC At+Post: Mohadi Tha. Mohadi Gandh Ward Dis. Bhandara (Maharashtra)	OBC			
3.	Sanjay Sahalikram Narwadiya	Shalikram Narwadiya	24		Sanjay Shalikram Narwadiya, Sunil Kirana Store, Near of Smol Datha Mandir T.B. Toli Gondia	OBC			
4.	Aravind Kumar Ambika Prasad Tiware	Ambika Prasad Tiware	25	18.10.94	Aravind Kumar Tiware C/o Shri. A.P. Tiware, Rly. Colony Qtr. No. C/15 Bhandara Road Post, Warhi Dist. Bhandara Pin. 441905 (M.S)	Other			
5.	Harikisan Natthuji Bhure	Nattuji Bhure	24	18.10.94	Harikisan Bhure, S/o Shri Natthuji Bhure At. Sonoli, P.O. Warhi. Th. Mohadi Di. Bhandara Pin. 441905 (M.S.)	OBC			

1	2	3	4	5	6	7	8	9	10
6.	Keshav Pandurang Meshram	Pandurang Meshram	6-5-65 33	1-2-95	Keshav Pandurang Bhola School Back up Pater Rume Chale T 7/4	S.T.	4th Pass		
7.	Kaneha Ramprasad Gupta	Ramprasad Gupta	40	23-10-94	Kaneha Ram Prasad Gupta At+Post Bhandara Road, Tha. Mohadi Subhash Ward Distt: Bhandara.	OBC.			
8.	Manoj Kumar Jagdish Prasad Shukla	Jagdish Prasad Shukla	27	1-2-94	Manoj Kumar Jagdish Prasad, Shukla, Motibagh Bhoslewadi 14 Near of Post: Bezonbagh Nagpur.	OBC.	9th Pass		
9.	Shiva Bhadaraka Meshram	Bhadaraka Meshram	44	1-11-94	Shiva Bhadaraka Meshram At: Subhash Ward 9 Warthi Dist : Bhandara Pin-441905	SC.			

ANNEXURE-C

LIST OF THE CASUAL PARCEL PORTER WORKING AT TUMSAR ROAD RAILWAY STATION S. E. RLY.
NAGPUR DIVISION

S. No.	Name	Father name	Date of Birth & Age	Date of Appointment	Address	Caste	Qualification	Extra qualification	Signature
1	2	3	4	5	6	7	8	9	10
01.	Ajay Yadav	Chotelal Yadav		1-12-94	Motibagh Qt. No. L 47/1, Post-Bezanbagh Near-Kalamandir, Nagpur.	NT			
02.	Kashi Ram Sathavne	Shitaram Sathavne				SC.			
03.	Ajay Gajbhiye	Sambahji Gajbhiye			Neharu Marg, Mazzid Varli Bhandara Rd.	SC.			
04.	Sanjay Yadav	Chotelal Yadav		16-11-93	Motibagh Rly. Qtr. No. L 37/1 P.O. Bezanbagh C/o. Kalamandir Nagpur.				
05.	Ghanshyam	Biranwre			Gandhi Wade P.O. Dewadi Teh. Bhandara, Tumsar Road.				

1	2	3	4	5	6	7	8	9	10
06.	Maroti Kamble				Gandi Wade, P.O. Dewadi, Teh. Bhandara, Tumsar Road.				
07.	Raju Shadeo	Shadeo Shende		1-12-94					
08.	Fakaruddin	Malil Mohd.			Post. Dewadi, Tumsar Road.	OBC			
09.	Anish Khan	Rahim Khan	25-5-70	1-11-94	Plot No. 58/B. Gandhi Layout Jaffar Nagar Nagpur-440013	OBC			
10.	Abhiman Choudhary	Isytaru Choudhary				OBC			
11.	Anil Vithoba	Vithoba Kotangle				SC			

ANNEXURE-C

LIST OF THE CASUAL PARCEL PORTER WORKING AT TIRODA RAILWAY STATION'S. E. RLY., NAGPUR DIVISION

S. No.	Name	Father Name	Date of Birth or Age	Date of Appointment	Address	Caste	Qualification	Extra qualification	Signature
1	2	3	4	5	6	7	8	9	10
01.	Dilip Dongre	Nathuji Dongre		1-11-94	Kamtee Rly. Colony Tah. Kamptee. Dist. Nagpur.	SC			
02.	Suresh	Babu Rao		1-12-94	Rly. Station Tiroda Tah. Tiroda, Dist. Bhandara.				
03.	Pramod Savaji	Dhondusa Savaji		1-11-94	Rly. Police Office Jori Wadi Plot No. 10. Ajni, Nagpur.				
04.	Avinash Mohite	Shuklal Mohite		1-11-94	Hamal Kholi, Qtr. No.8, Itwari, Nagpur.				

ANNEXURE-C

LIST OF THE PARCEL PORTER WORKING AT GONDIA RAILWAY STATION.

S. No.	Name	Address	Appointment Date	Station	Caste	Education	Age	Signature
1	2	3	4	5	6	7	8	9
01.	Anil Kadachu Padole	At. Mandad Post. Madgi Th. Tumsar Dist. Bhandara	8-11-94	G	N.T.		30	

1	2	3	4	5	6	7	8	9
02.	Ramkaran Jojister Waghmare	At. Motibagh Nagpur.	10-11-94	G			26	
03.	Ramesh Murlidhar Lute	Vishally Nagar Nagpur	10-11-94	G	OBC	9th Pass	26	
04.	Anil Chandrabhan Meshram	Bellyshop Quarter Bezenbagh Nagpur.	10-11-94	G	S.C.		29	
05.	Prakash Kewaldas Rangari	J.P. Nagar Kamtee Th. Kamtee Dist. Nagpur.	11-11-94	G	S.C.		34	
06.	Rajendraprasad Ramprasad Pal	Nagpur	04-12-94	G				
07.	Silesh Govindrao Patil	Goilypura Jaibhim Chowk Kamtee, Dist. Nagpur.	11-11-95	G	S.C.			
08.	Rameshwar Sitaram Lanjewar	At. Godekhari Post, Kawalewada Th. Goregaon Dist. Bhandara.	13-01-95	G	O.B.C.		28	
09.	Sanjay Mahadeo Borkar	At. Mothakamtee Th. Kamtee Dist. Nagpur	28-01-95	G	O.B.C.		28	
10.	Nathu Mahadeo Borkar	At. Mothakamtee Th. Kamtee Dist. Nagpur	28-01-95	G	O.B.C.		33	
11.	Prakash Yadeo	Basant Nagar Gondia, Dist. Bhandara.	28-01-95	G	O.B.C.		29	
12.	Shriniwas Veer Raju		28-01-95	G				
13.	Mahesh Prajapati		28-01-95	G	O.B.C.		28	
14.	Shrikrishna Ramaji Sathawane	At. Kardi Post. Kardi Th. Mohadi Dist. Bhandara.	01-02-95	G				
15.	Pawankumar Kishorilal Dhare	At. Lodhitola Post. Chutiya Th. Gondia Dist. Bhandara	03-02-95	G			28	
16.	Suraj Arundas Kathane	At. Ramghad Good Shed Kamtee Dist. Nagpur.	03-02-95	G	S.C.		34	
17.	Rakesh Fakirchand Sawantul	At. Naya Goodam Shed : Kamtee Dist. Nagpur	03-02-95	G	S.C.		31	

1	2	3	4	5	6	7	8	9
18.	Raju Nathuji Dongre	Railway Station Railway Quarter No. 1 Kamtee Dist. Nagpur	03-02-95	G	S.C.		30	
19.	Iswarsingh Gokul Singh Madavi	Civil Line Rly. Ward, Gondia Dist. Bhandara.	13-02-95	G	S.T.			
20.	Girish Senkar Dhawade		14-02-95	G	S.C.	Xth class passed		
21.	Ashok Mansaram Chandankar	Civil Line Rly. Ward Gondia Dist. Bhandara	21-03-95	G	O.B.C.		31	
22.	Nageshwarrao Veer Raju		24-03-95	G	Telegu			
23.	Ashok Govinda Mishar	Sulezari Nagbhid Dist. Chandrapur	03-04-95	G				
24.	Bapatrao Arjan Bansod	Post, Berdipar Kahewani Th. Tirora Dist. Bhandara.	10-04-95	G	S.C.			
25.	Vijay Lanjewar		23-06-95	G				
26.	Abdul Kalam Sheikh	Basant Nagar Gondia Dist. Bhandara	23-06-95	G	Muslim			
27.	Sanjaykumar Sambhu Yadeo	Civil Line Rly. Ward Gondia Dist. Bhandara	28-06-95	G	O.B.C.			
28.	Madhusudan Laruram Ulkey	At. Post, Darekasa Th. Salekasa Dist. Bhandara	28-06-95	G	S.T.		22	
29.	Sayamalkumar Modak	Rly. Colony Near Rest House Gondia Dist. Bhandara.	17-05-95	G	Bengali		24	
30.	Omprakash Maroti Mane	Laxmi Nagar Wd. 16 Gondia Dist. Bhandara	28-06-95	G				
31.	Sunil Premlal Dharwe	Civil Line Rly. Wd. Gondia Dist. Bhandara	28-06-95	G	S.T.		29	
32.	Mohapat Bakaram Muly	At. Madgi Th. Tirora Dist. Bhandara	28-06-95	G				
33.	Chankradhar Gajbhiye		7-7-95	G				
34.	Silesh Shrawan		29-06-95	G				

1	2	3	4	5	6	7	8	9
35.	Hanumantrao Baburao Chandankar	Civil Line, Gondia Dist. Bhandara.	28-06-95	G	O.B.C.			
36.	Sunil Jairam Ramteke	Gautam nagar Doubling Colony Gondia Dist. Bhandara	29-06-95	G	S.C.		26	
37.	Ravishankar Premchand Bathawa	Civil line near Sai Mandir, Gondia Dist. Bhandara	28-06-95	G				
38.	Rakesh Madavi		13-07-95	G	S.T.			
39.	Rakesh Madavi		13-07-95	G	S.T.			
40.	Ramkrishna Sakaram Bohare	Civil Line near Loco Shed Gondia Dist. Bhandara	23-07-95	G	O.B.C.		24	
41.	Paras Gyaniram Borkar	Ambedkar Ward Gondia Dist. Bhandara	08-08-95	G	S.C.			
42.	Jitendra Dashrat Damahe		01-09-95	G				
43.	Ravi Tejram Raut		26-09-95	G				
44.	Anantkumar D.Khobraghade		30-09-95	G	S.C.			
45.	Ravindra Anandrao Thalal	Master Colony Near Hanuman Mandir Gondia, Dist. Bhandara.	02-10-95	G	O.B.C.		28	
46.	Iswarrao Chhinarao		04-10-95	G	N.T.		25	
47.	Shankar Jivlane Meshram		30-10-95	G				
48.	Paras Manohar Mendbekar	57, Shrinagar near Darshan Colony, Nagpur Dist. Nagpur	25-11-95	G	S.C.		34	
49.	Shivaji Punjabrao Khapare	Singaltoly Ambedkar Wd. Gondia Dist. Bhandara	25-11-95	G	S.C.	12th Passed	31	
50.	Manoj Parashram Meshram		28-11-95	G				
51.	Navin Rajaram Thaware	New Indora Jaripatka, Nagpur Dist. Nagpur	28-11-95	G	S.C.	12th Fail	27	
52.	Bhusan Ganesh Sahare		01-02-96	G	S.C.	12th Passed	26	

1	2	3	4	5	6	7	8	9
53.	Ramesh Nakaraji Gomase	At. Mandhad Post. Madgi Th. Tumsar Dist. Bhandara.	03-02-96	G	O.B.C.	10th Fail	22	
54.	Bhagwan Sadashivji Thawkar	At. Mandad post. Madgi Th. Tumsar Dist. Bhandara.	03-02-96	G	O.B.C.	4th Fail	24	
55.	Rajesh Atmaram Supatkar	RE/Rly. Qtr. Kalmna, Nagpur Dist. Nagpur.		RJN				
56.	Tejram Balaram Tulsikar	Near of Water Filter Tank, Kudwa Katangikala, Gondia Dist. Bhandara.	23-03-95	G	O.B.C.	B.A. III	28	
57.	Vikas Mitaram Bhamarde		1-9-95	G	S.C.		34	
58.	Shailesh Shavan Bagde	Warphakad Bada Indora, Nara Road, Nagpur.	30-06-94	Gondia	S.C.	9th Passed	32	
59.	Ganesh Raoji Borkar	Lashkaribagh, Ambedkar Colony, Nagpur.	15-08-95	Gondia	S.C.	9th Passed	37	

ANNEXURE-C

LIST OF THE CASUAL PARCEL PORTER WORKING AT RAJANANDGOAN RAILWAY STATION, S.E. RLY.
NAGPUR.

Sl. No.	Name	Father Name	Date of Birth	Date of Appointment	Address	Caste	Quali- fication	Extra
1	2	3	4	5	6	7	8	9
01.	Rajesh Supatkar	Atmaram supatkar	1-11-1971	1-4-95	Kalmuna Rly. Quater No.R.E./II /5/A Old Kamptee Rd. Nagpur 440026	O.B.C.	S.S.C Passed Mh. Board	N.C.C. Certi. & Elec Electr Certi- ficate
02.	Duswant Kumar Dewangan	Bharatal Dewangan	14-8-75	3-6-75	Vill.&Post Dhangoan. Dist.Rajnand- goan (M.P) 4914441.	O.B.C.	12th pass	ITI Trade
03.	Maniklal Dewangan.	Raghuber Dewangan	25-12-75	3-6-95	Vill.&Post Dhangoan. Dist.Rajnan- dgoan (M.P) 4914441.	O.B.C.	11th pass	—

1	2	3	4	5	6	7	8	9
04.	Shrad Choware	Udaram Choware	21-1-73	27-4-95	New Khalashi Line Kamptee 441002 Dist. Nagpur.	S.C.	12th pass	English 30 w.p.
05.	Jalil Beg	Sattar Beg	1-7-68	8-4-94	New Nakasha C/o Rafique Opp. Masjid, Nagpur.	Other	8th pass	Turner Practic Work.
06.	Shyam Lal Rout	Rambaran Raout	3-7-1972	1995	Darekasa, P.O. Darekasa Tah. Salekasa Dist. Bhandara	S.T.	12th	—
07.	Sanjay Khobragade	Domaji Khobragade	7-8-76	13-9-95	Hiwari Ngr. Plot No. 47	S.C.	8th pass	—
08.	Pramod Khobragade	Shriram	9-4-78	16-1-95	New Indora Republican Nagar, Jari Patka, Nagpur.	S.C.	S.S.C.	—

ANNEXURE-C

LIST OF THE PARCEL PORTERS AT ITWARI RAILWAY STATION, S.E. RLY. NAGPUR.

SL. No.	Name	Address	Age	Signature	Qualification
1.	Rajesh Pande	Chocks Colony, Nagpur	28		12th Pass
2.	Anad Naidu	Buddha Ngr, Nagpur.			M.Com
3.	Kishor Maroti Meshram	S.E. Rly. Colony, Motibagh, Nagpur	26		12th Pass
4.	Rajesh Shripat Gedam	Panidurgawati Ngr, Nagpur	30		9th Pass
5.	Dinesh Shymaro Ingole	S.E. Rly. Colony, Motibagh, Nagpur	23		10th Pass
6.	Sandeep Damodhar Budhe	A.P. Tumser, T. Tumsar, Dist. Bhandara	31		B.Com
7.	Devidas Hari Madame	S.E. Rly. Colony, Itwari, Nagpur	28		10th Pass
8.	Gopal Buddharam Raut	Model Mill Chal No. 4, Ganeshpeth, Nagpur	35		10th Pass
9.	Dipak Devman Sharné	Kapil Ngr, Nari Road, Nagpur	23		12th Pass
10.	Moreswar Masboinwar	Shanti Nagar, Nagpur.	28		9th Pass
11.	Madhukar Ramaji Meshram	Anguli Mahal Nagar, Nagpur			9th Pass

1	2	3	4	5	6	7	8	9
12.	Jitendra Baldeo Chouhan	Ram Nagar, Nagpur	28		Sd/-	10th Pass		
13.	Shaikh Rafiq	Shanti Nagar, Nagpur	37		Sd/-	8th Pass		
14.	Shaikh Babbu	Shanti Nagar, Near Garden, Nagpur	40					
15.	Keshav Kove	Shanti Nagar, Nagpur	40		Sd/-	9th Pass		
16.	Damodhar Kotangle	Rajiv Gandhi Nagar, Nagpur.	41					
17.	Jairam Shyamrao	Near Bhartiya Akhada, P.O. Nayapura, Nagpur						
18.	Kavtik Fakra Meshram	Minimata Nagpur, Nagpur	33					
19.	Baban Doilet Yadav	Shanti Nagar, Nagpur.	40					
20.	Shankar Naraniware	Behind Post Office, P.O. Narapura, Nagpur	32		Sd/-	9th Pass		
21.	Bapudas Vithoba	Rani Durgawati Ngr., Nagpur	34					
22.	Sachin Shyamrao	Near Buddha Vihar, Bankeda, Nagpur	21		Sd/-	10th Pass		
23.	Laxman Yadavrao	S.E. Rly. Colony, Kamtee, Nagpur.	26		Sd/-	12th Pass		
24.	Sharad Haridas Lonare	Behind Kabrastan, Jaripatta, Nagpur	28		Sd/-	10th Pass		
25.	Abhay Nipane	Nandanwan Colony, Nagpur.			Sd/-	12th Pass		
26.	Ashok Radhunath Ukey	Panchasheel Nagar, Nagpur	27		Sd/-	12th Pass		
27.	Manohar Shymarao Ingole	S.E. Rly. Colony, Motibagh, Nagpur	33					
28.	Vijay Lalaji	At Mandal, P.O. Badgi, T. Tumsar						
29.	Kulpat Tikaram	At Usarla, P.O. Tumsar, Dist. Bhandara	45					
30.	Mahendra Ramlochan Shukla	Jagdish Ngr, Katol Rd. Nagpur	24		Sd/-	10th Pass		
31.	Gajanan Nagorao Shove	36, Ayodhya Ngr, Nagpur.	25		Sd/-	10th Pass		
32.	Prabhakar Ramchandra Gohate	Bhuteshwar Nagar, Nagpur.	33					
33.	Roshan Murlidhar	Near Buddha Vihar Indora, Nagpur	26		Sd/-	12th Pass		
34.	Ravinder Wasnik	Dharmadeep Nagar, Nagpur	35		Sd/-	9th Pass		
35.	Jitendra Domaji Rangari	Jaripatka, Nagpur	31		Sd/-	B.Com.		

नई दिल्ली, 15 अप्रैल, 2008

का.आ. 1044.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबंध में निम्नलिखित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 11/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-4-2008 को प्राप्त हुआ था।

[सं. एल-12012/264/94-आई आर(बी-II)]

राजिन्दर कुमार, डेस्क अधिकारी

New Delhi, the 15th April, 2008

S.O. 1044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Allahabad Bank and their workmen, which was received by the Central Government on 11-04-2008.

[No. L-12012/264/94-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI R. G. SHUKLA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
SHRAM BHAWAN, A T I CAMPUS,
UDYOG NAGAR, KANPUR

Industrial Dispute No. 11 of 1995

In the matter of dispute between

UP BANK EMPLOYEES, UNION,
SHRAM BHAWAN,
UDYOG NAGAR, KANPUR.

The Chief Manager,
Allahabad Bank, Zonal Office,
Kanpur.

AWARD

1. Central Government, MOL, New Delhi, vide notification No. L-12012/264/94 I.R.B-II dated 12-01-95, has referred the following dispute to this Tribunal for adjudication:

Whether the action of the management of Allahabad Bank Kanpur in dismissing Shri Natwar Lal Tandon clerk from the service of the bank w.e.f. 25-08-94 is legal and justified? If not what relief is the said workman entitled?

2. The case of the union on behalf of the workman as setup in the statement of claim in short is that a fraud is

alleged to have been committed at Pheelkhana Branch of the Bank at Kanpur in which the Manager and Assistant Branch Manager viz Sri K. L. Tandon and R. R. Bajpai respectively were reportedly involved and both the officers named above are under suspension from the bank and are on bail where after neither any action against them has been initiated by the bank nor by the C.B.I. which has been investigating the case so far. The manager remained posted at the branch for about six years against the term of three years prescribed in the bank for their posting at a place for the officers including managers and after that he was transferred to Lajpat Nagar Branch of the Bank at Kanpur and in a couple of months he was again posted at Pheelkhana Branch of the Bank. In the same fashion Sri Bajpai the Assistant Manager was transferred to Rania Branch of the Bank and thereafter he was again allowed to be posted at Pheelkhana Branch of the Bank. The manner in which both the officers of the bank were retained at Pheelkhana Branch proves that the Assistant General Manager, Kanpur and the Regional Manager of the branch were involved neck deep in the alleged fraud. The Regional Manager of the bank unfortunately happened to be the disciplinary authority in the case of the workman and the Assistant General Manager also happened to be the appellate authority and both of them remained silent so far relating to initiation of disciplinary action against the Branch Manager and the Assistant Manager of Pheelkhana Branch of the bank but preferred to proceed against the workman and some other employees of the bank. The workman was placed under suspension by the bank on 17-3-94 and later on served with a charge sheet dated 30-05-94, by the Regional Manager / Disciplinary Authority.

3. It is the further case of the workman that a regular departmental inquiry was ordered by the disciplinary authority by nominating inquiry officer vide letter dated 20-06-94 and the enquiry officer issued a notice fixing date of enquiry as the date of preliminary hearing. After the same enquiry fixed on day to day basis from 12-07-94 to 16-07-94 and on all these dates the workman participated in the inquiry. However, on the next date of inquiry i.e. 19-07-94, the workman who had been the old patient of diabetes, hypertension and heart ailment being unable to bear the tension and strain of the inquiry fell ill and submitted an application supported by medical certificate of his illness, seeking adjournment of inquiry, which was highly objected by the presenting officer regarding grant of adjournment on the pretext that the workman should be got examined by the Chief Medical Officer, Kanpur. The enquiry officer agreeing with the demand of the presenting officer ordered the workman to be got examined by the Chief Medical Officer and to produce his certificate the same day i.e. on 19-07-94 latest by 4.00 p.m. It was intimated by the defense representative to the enquiry officer that the medical certificate will be dependent upon the availability of Chief Medical Officer, Kanpur. However, the enquiry was adjourned by the enquiry officer to 20-07-94, for hearing in the case.

4. It is further alleged that the defense representative on 20-07-94 reported the enquiry officer that the condition of the workman had deteriorated in the evening of 19-07-94 and therefore he had to be rushed to the Cardiology Institute, Kanpur, where Sri S. S. Singhal, Professor and Director of the Institute checked the workman and in support of the same, prescription prescribed by the doctor was also enclosed with the application moved before the enquiry officer on 20-07-94, which was strongly opposed by the presenting officer and that during the course of discussion in the enquiry it was also informed by the defense representative that the Chief Medical Officer will not examine any employee unless he has been referred by the bank or his employer. On this the enquiry was adjourned to 23-07-94, with direction to the presenting officer to arrange for a letter of reference from the bank to the Chief Medical Officer and the same was arranged on 21-07-94, which was delivered at the residence of the workman at 4.00 p.m. on 21-07-94. The workman with the help of the said letter dated 21-07-94 of the bank approached the Chief Medical Officer, Kanpur, on 23-07-94, as in the said letter a direction was containing that workman may submit the certificate of the Chief Medical Officer by 25-07-94. The Chief Medical Officer, Kanpur, telephoned the authorities of the bank to depute some officer to identify the workman as there was no mark of identification of the workman on the letter dated 21-07-94, thereafter, the presenting officer went before the Chief Medical Officer for identifying the workman and did not report back and got recorded this fact in the proceedings recorded on 23-07-94. The Chief Medical Officer observing that the workman is heart patient referred the workman before Dr. V.M. Khare, Heart Specialist, of the District Hospital of Kanpur who after examining the workman referred some pathological tests and in this way workman remained busy for his medical check up from 23-07-94 to 27-07-94.

5. It is also the case of the workman that on 28-07-94 the Chief Medical Officer, Kanpur, finally examined the workman and advised that the medical report will be sent to the bank directly by him in due course of time. The enquiry officer adjourned the enquiry to 25-07-94, to bring the certificate of the Chief Medical Officer, Kanpur, and send a copy of the proceedings to the workman by speed post which was received by the workman.

6. It is also alleged that the enquiry officer instead of waiting for the certificate of the Chief Medical Officer, Kanpur, held the enquiry on 25-07-94, behind the back of the workman, of which, copy of proceedings were received by the workman on 29-07-94, purported to have been dispatched by the bank on 26-07-94. Being unaware of the proceedings of the inquiry the workman continued visiting to the doctor and the enquiry was finally concluded by the enquiry officer on 26-07-94.

7. Coming to know about the closure of the proceedings by the enquiry officer, the workman wrote a

letter to the enquiry officer on 01-08-94 which was received by him on 02-08-94 at his resident at Meerut and in this communication it was made clear by the workman that as the doctors had advised him rest for two weeks, therefore, the proceedings of the inquiry may be stayed until the recovery of the workman. No action on the said application of the workman was taken by the enquiry officer. Still he submitted his findings on 03-08-94, to the Regional Manager of the Bank. Subsequently vide bank's letter, the workman was informed that instead of Regional Manager of the Bank, Chief Manager will operate as disciplinary authority in the case of the workman. It is alleged that it is without any authority, and therefore, is not sustainable in the eye of law.

8. The Chief Manager issued a show cause notice to the workman proposing the punishment of dismissal from the service of the bank. It was also indicated in the said show cause notice that the workman will also be given personal hearing on 24-08-94 before passing final orders in the case, but said opportunity could not be availed of by the workman due to development of high blood pressure as a result of which he was rushed to the hospital, where the attending doctors considering the seriousness of the ailment of the workman admitted him in emergency on 22-08-94.

9. The wife of the workman under the facts and circumstances of the case informed the Chief Manager about the workman's critical condition with request to postpone the date of personal hearing or that he may hold the personal hearing at the hospital.

10. The union raising the present industrial dispute looking to the high handedness of the authorities of the bank raised an industrial dispute before Regional Labour Commissioner (C), Kanpur, still the Chief Manager and the Disciplinary authority of the bank passed on 25-08-94, final order in the case dismissing the workman from the service of the bank without providing him opportunity of being heard on the quantum of punishment. In the last it is alleged that the entire action of the bank in the name of the disciplinary action against the workman is illegal, arbitrary, discriminatory, against rules governing the service conditions and rules of natural justice, therefore, the same cannot be form basis of awarding capital punishment. It has also been prayed that the punishment awarded to the workman on the basis of illegal enquiry be set aside and he be reinstated in the service of the bank with full back wages, continuity of service and all other consequential benefits.

11. The claim of the workman has been countered by the opposite party bank vehemently on a number grounds, interalia, that while the workman was working at Pheelkhana branch of the bank at Kanpur, a fraud worth Rs. 22,70,00,000 was detected in the month of February 1994, wherein contribution of gross negligence of the concerned workman in discharging his duties was also revealed and consequently the workman was placed under suspension

on 17-03-94, followed by charge sheet dated 30-05-94, to which no reply was submitted by the workman. He was due for his retirement on 31-08-94, and therefore, with ulterior motive he opted to create hindrances in timely completion of domestic enquiry instituted to probe into the charges leveled against him and he also avoided opportunity of personal hearing against the proposed punishment so that the same may not be completed before he retires from service and it is in this perspective that the attitude of the workman right from the stage of domestic inquiry need to be looked into and judged.

12. It is also alleged by the opposite party bank that the inquiry against the workman was instituted by the Regional Manager of the Bank *vide* order dated 20-06-94, wherein enquiry officer and presenting officer were appointed simultaneously by the Regional Manager and Disciplinary authority of the bank in the case of the workman. The proceedings of the enquiry were conducted by the enquiry officer with due intimation to the workman and on the request either by him or by his defense representative the proceedings of the inquiry were adjourned almost for 7 times and finally the workman abstained from participating in inquiry from 19-07-94 onwards on the pretext of health ground which was obviously with malafide intention to get the inquiry proceedings lingered on till he retires on 31-08-94 and it is so that the workman did not cooperate with the inquiry to escape infliction of the warranted punishment for his gross negligence on duty. The enquiry officer was under the facts and circumstances of the case was left with no option but to conclude the inquiry by proceeding *ex parte* against him as the workman was due for his retirement on 31-08-94. Having come to the conclusion that the charges against the workman stands proved and also that the workman was bent upon to delay the disciplinary action deliberately, he was awarded the punishment of dismissal from service on 25-08-94 under clause 196(a) of First Bipartite Settlement dated 19-10-66, which was got published in the leading news papers of wide range like Dainik Jagaran and Pioneer of 26th Instant of August 1994. It is also alleged that the enquiry officer provided all reasonable and possible opportunity to the workman in the matter of his defense during the course of domestic inquiry and followed the principles of natural justice and rules governing the service conditions applicable on the workman. Enquiry findings are perfect and legal and there is no perversity there, therefore, the same does not call for any interference.

13. The workman himself avoided personal hearing for the reasons given above. There is no illegality in the inquiry against the workman and the workman was awarded punishment which commensurate with the gravity of the proved misconduct. Lastly it has been prayed that the case of the workman is devoid of merit and is liable to be rejected.

14. In the instant case the tribunal *vide* its order dated 20-02-98, has framed a preliminary issue to the effect as to

whether domestic inquiry conducted by the management was not fair and proper and the arguments on the preliminary issue were heard by the tribunal. Thereafter, the tribunal *vide* its award dated 16-11-98 answered the reference against the workman holding that the inquiry conducted by the management was fair and proper and it was also held by the tribunal that the dismissal of the workman is justified.

15. It is pertinent to point out that the award dated 16-11-98 of this tribunal was challenged by the workman before the Hon'ble High Court at Allahabad by way of filing Civil Misc Writ Petition No.4896 of 1999. The Hon'ble High Court *vide* its judgment and order dated 03-10-07 was pleased to quash the award of the tribunal and was further pleased to remand back the case to this tribunal for deciding it a fresh after providing opportunities of hearing to the contesting parties.

16. After receipt of certified copy of the judgment of the Hon'ble High Court, registered notices to the contesting parties were issued by the tribunal. On 29-11-07, when the case was taken up for hearing both contesting parties advanced an arguments before the tribunal that they are not inclined to adduce any evidence oral or documentary and that they will confine their arguments only to the point of quantum of punishment. Ultimately final arguments in the case were heard.

17. Since both the sides have no objection with regard to the fairness of the enquiry by the enquiry officer, the finding with regard to the fairness of the enquiry obviously goes against the workman. Now simple question with regard to the quantum of punishment has to be looked into.

18. It is alleged by the learned representative of the workman that the workman was not in the authority of passing any cheque or giving the amount to any customer and he was only the person who was making entries in the long book with regard to the alleged cheques through which the transactions for the amount alleged to have been defrauded by other persons have been done and they are involved in the alleged fraud.

19. The learned representative for the management submitted that due to gross negligence of the worker the fraud had been committed and if the worker would have been vigilant the fraud could have been detected at the initial stage and the gross loss to the bank could have been avoided.

20. I have given anxious thought to the arguments of the parties and have carefully gone through the evidence on record. The sole allegation against the workman is that he was not vigilant and careful in entering the said cheques in the Long Book through which the same were duly passed by the higher authorities of the branch. In the charge sheet there is no mention that the workman had any hand in making loss of Rs. 22 Crore to the bank. It is also alleged that he did not receive any benefit out of the said fraud or

he had engulfed this amount for his own use. In each charge mentioned in the charge sheet it is mentioned that one R.R. Bajpai and another K. L. Tandon had countersigned the different cheques or the payment of the cheques were made without proper clearing etc. Some cheques were with held illegally and payment of them was made. But there is no mention in any of the charges that the worker who involved in the above acts. Only allegations in these charges are that due to his negligence such transaction took place and frauds were committed upon the bank. For example charge no. 7 it is categorically mentioned that on 02-06-93 Sri Sanjai Somani the prime culprit and the mastermind behind the fraud perpetrated on the bank, and presented cheque for Rs. 56,00,000 drawn by M/s Sukesh Investments Private Limited favouring self drawn on Punjab National Bank U.P. Stock Exchange and another cheque for Rs. 35,00,000/ laces drawn by M/s Somani Investment. It revealed that the said cheques were not sent in clearing for collection and the said Sri Somani was fraudulently accommodated by crediting of Rs. 91,00,000 in his respective account at the branch. The allegations against the workman is that while writing credit entries in the long book he negligently over looked that the relative voucher of such a high value was single handedly passed by Sri K.L. Tandon, aforesaid, he negligently ignored that the said vouchers were not counter signed by Special Assistant which could have been noticed by him had he been fully vigilant but he failed in discharging his duty honestly and diligently as a result of which perpetration of fraud could be detected. In other charges also similar allegation of omission and negligence has been made. In other words it was the act of other officers who actually committed fraud, manipulated the accounts, fabricated the cheques and not the workman who actually did not do any act of fraud or manipulations in the cheques for getting any benefit for himself or to his associate. He simply could not notice the fraud of others who were high authorities to him. He was not authorized to check deeds of his superior officers. It was also not possible because no duty was cast upon him to cancel the entries made by his superior officers such as R. R. Bajpai and K. L. Tandon. It is admitted by the learned authorized representative of the bank that these peoples who were in hand and glove with each other are still working in the bank. The poor workman has been dismissed for his negligence only. Had he been the person who defrauded the amount of Rs. 22 Crore capital punishment of dismissal from service would have been justified but this punishment on the facts and circumstances of the case is too harsh and cannot be allowed to be sustained. It is argued by the learned representative for the bank that as the retirement date of the workman was nearing therefore he was awarded capital punishment as the recovery of the defrauded amount was not possible under short period of time. This arguments of learned representative of the bank cannot be accepted for the simple reason that in case a person was going to retire, the amount regarding which fraud was committed could not have been recovered from him during the service so he should be awarded extreme penalty of dismissal.

Even by the dismissal of the worker the bank could not be able to recover whole of the amount. In other words this circumstance cannot be held to be pressing circumstance as to award punishment of dismissal.

21. Considering the fact that the workman was not directly involved in the alleged fraud due to which a loss of Rs. 22 crore was caused to the bank, ends of justice would be met if the extreme punishment of dismissal from service awarded to the workman by the punishing authority is modified to the extent that he be treated to have been compulsorily retired from the service of the bank from the date from which final order was passed by the punishing authority. The workman shall be entitled for all superannuation benefits following his retirement.

22. Accordingly for the reasons discussed above, the punishment order dated 25-08-94 as aforesaid awarded to the workman for his dismissal from service is hereby set aside and it is awarded that he shall be treated retired from service from 25-8-94 with superannuation benefits and other consequential benefits attached with the post.

23. Reference is answered according in favour of the workman and against the opposite party.

R. G SHUKLA, Presiding Officer

नई दिल्ली, 15 अप्रैल, 2008

कर.आ. 1045.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 1/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-4-2008 को प्राप्त हुआ था।

[सं. एल-12011/204/2003-आई आर(बी-11)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 15th April, 2008

S.O. 1045.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Allahabad bank and their workmen, which was received by the Central Government on 11-04-2008.

[No. L-12011/204/2003-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT KOLKATA

Reference No. 01 of 2004

Parties: Employers in relation to the management of Central Bank of India

AND

Their workmen

Present : Mr. Justice C.P. MISHRA, Presiding Officer

Appearance:

On behalf of the : Mr. K. Tarai, Manager.
Management

On behalf of the : Mr. K. Sen, Assistant
Workmen Secretary of the Union.

State: West Bengal. Industry: Banking.

Dated: 31st March, 2008.

AWARD

By Order No.L-12011/204/2003/IR(B-II) dated 19-01-2004 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Central Bank of India in terminating the service of Shri Babulal Roy is justified? If not, what relief the concerned workman is entitled to?”

2. This reference has been made at the instance of Central Bank of India Employees Association, hereinafter to be referred as the Association. The case of the workmen as it appears from the statement of claims of the Association is that the Central Bank of India, hereinafter to be referred as the Bank is a Public Sector Bank and the service conditions of the workmen of the Bank are governed by Sastri Award as modified subsequent Awards and industry-wise bipartite settlements and other relevant labour law's. There are in-house settlements also between the Bank and the workmen governing certain aspects of service conditions, mainly promotions etc. The Bank appointed on 17-08-1998 Shri Babulal Roy the concerned workman in the permanent vacancy of sub-staff at its Bhawanipur Branch under Kolkata South Region. His service was terminated on the close of business on 30-04-1999 without any notice to deny him the benefit of regularisation in the post and permanent status as required under law and service conditions of the workmen in banking industry. The concerned workman served Bank in the permanent vacancy of sub-staff for about 245 days from 17-8-1998 to 30-4-1999 continuously and uninterruptedly with full satisfaction of his seniors and the Bank. In this connection some documents have been referred to by the Association. It is categorical case of the Association that the Bank terminated and retrenched the concerned workman unlawfully without complying the conditions precedent to retrenchment as prescribed under Section 25F of the Industrial Disputes Act, 1947, hereinafter to be referred as the Act. The Association and also the concerned workman protested against such action of the Bank and demanded his reinstatement in service, but without any effect. hereinafter the Association raised an industrial dispute before the Assistant Labour Commissioner (Central), Kolkata and the said conciliation officer held conciliation in the matter which ended in failure and ultimately the present dispute has been referred to this Tribunal for

adjudication. According to the Association it is well settled law that when the provisions of Section 25F of the Act are not complied with the retrenchment is ab initio invalid, void and inoperative and the workman is entitled to be reinstated in service. It is accordingly prayed that an Award may be passed declaring the termination of service of the concerned workman by the Bank as void ab initio, improper, unjustified and unlawful and directing the Bank to reinstate the concerned workman in service with full back wages and consequential benefits from the date of his termination.

3. The case of the Bank as it appears in its written statement is that the present reference is not maintainable as there was no employer - employee relationship between the Bank and the concerned workman. The reference is also stated to be not maintainable because the workman did not specify the date of reinstatement, nor such date is mentioned in the schedule of reference. On merit the case of the Bank is that the concerned workman was engaged by it through the Head Peon/Jamadar at its Bhawanipur Branch as Coolie to do some jobs as and when required and he was paid for the same through vouchers which were duly signed by the said workman in token of receiving the amount mentioned therein. He was engaged for supplying drinking water in the absence of the concerned regular staff during the year 1998-99 intermittently and payment for such work used to be made through petty cash vouchers by the Head Peon/Jamadar of the Bank. The Bank had to recruit a regular sub-staff through local Employment Exchange against any permanent vacancy after following certain procedures for recruitment, but the concerned workman was not appointed through Employment Exchange, nor he was appointed after following such procedure for recruitment. The Bank has denied the claims and contentions of the Association in seriatim. It is stated that since no appointment letter was issued to the concerned workman for his such engagement, termination of his service without notice does not arise. The Bank has admitted the existence of the letter dated 04-09-2000 of the concerned Branch of the Bank, but it is stated that writer of this letter in fact counted the total calendar days for the period 17-8-1998 to 30-4-1999 without consulting the petty cash vouchers relating to the concerned workman. It is further stated that he was not engaged against a regular vacancy and it is not a case of termination from service but a case of de-engagement from service and as such he cannot claim any benefit for such de-engagement. He does not come within the purview of “workman” as defined under Section 2(s) of the Industrial Disputes Act, 1947 by virtue of his nature of work with the Bank and as such he is not a workman. The prayer made on behalf of the workman is stated to be unsustainable and not maintainable.

4. Both the parties have exhibited certain documents. Out of the documents filed on behalf of the workmen Ext. W-1 is the letter dated 04-09-2000 of the Bhawanipur Branch of the Bank addressed to the PRS. Department of the Bank.

Ext. W-2 is the letter dated 27-12-2000 written by the Chief Manager (PRS) to the Central Office of the Bank. Ext. W-3 is another letter dated 01-01-2002 written by the Chief Manager (PRS) to the Central Office of the Bank. Ext. W-4 is the letter of the Association dated 27-06-2003 addressed to the Assistant Labour Commissioner (Central) raising the industrial dispute in question. Ext. W-5 is the letter dated 28-08-2003 written by the Conciliation Officer to the Central Govt. regarding failure of conciliation. Ext. M-1 is the same as Ext. W-3. Ext. M-2 is a letter dated 01-12-2001 written by the Chief Manager (R&P) of the Bank to the Chief Manager (PRS), Zonal Office, Calcutta. Ext. M-3 is same as Ext. W-2. Ext. M-4 is a letter dated 14-07-2003 written by the Regional Manager addressed to the Assistant Labour Commissioner (Central), Kolkata. Ext. M-5 is same as Ext. W-5. Ext. M-6 is the letter dated 12-07-2003 written by the Senior Manager of the Bank to the Regional Office (South) of the Bank. Ext. M-7 is 40 Petty Cash Slips showing payment to the concerned workman.

5. Both the sides have examined two witnesses each. On behalf of the workmen the concerned workman Shri Babulal Roy has been examined as WW-1. He has stated in his deposition that he joined the Bhawanipur Branch of the Bank in the year 1982 when he was engaged by the contractor, Bright India Chemicals for dusting and cleaning of the office premises. In the year 1988 the earlier contractor was disengaged. After 1988 he used to go to the Post Office for posting letters and also making over cheques to Cassoram Industries Ltd. He was also doing the work of Peon in the office in the absence of the regular Peon. As a Peon he was doing work in the Mini Deposit Dept. of Savings Dept. and also in the Current Deposit Dept. in the absence of the regular sub-staff. He was doing all these work upto April, 1999. He has also stated that some temporary staff in other branches of the Bank were made permanent. He also requested the Manager for making him permanent, but the Manager retrenched him thereafter. He then approached the union to take up his cause. In cross-examination he has stated that he was working as contractor's man in the Bank and he was doing the job of cleaning and dusting and he was disengaged in the year 1998. He was doing the work in the Bank as the regular staff were doing. He was working in the Bank throughout the month and his working hours were from 10.30 A.M. to 5 P.M. His payment was on daily rate and he was not paid in the salary register, but through voucher. He has also stated that he was not engaged in the Bank through Employment Exchange. He could not say whether the Bank Manager had the authority to engage such staff in the Bank and how. He also does not know how the temporary staff are paid. He has stated that he was engaged by the Manager but not Jamadar. He was getting Rs.25 per day and the payment used to be made to him through vouchers. According to him he was terminated on 03-04-1999.

WW-2, Parimal Chandra Das was working in the Bhawanipur Branch of the Bank from 1988 to July, 2004 as

Stenographer-cum-Typist. He has stated that the concerned workman was working there as a member of the sub-staff and he used to go to the Clearing House, Regional Office, Post Office etc. He also worked in different sections of that Branch. The concerned workman was directly under the supervision and control of the management of the Bank and he was paid through vouchers signed by either Manager or Accountant. According to him as per Bank's norms if a workman works for 240 days continuously within a period of 12 months, he can claim permanent absorption in the Bank. In cross-examination the witness has stated that the concerned workman was not appointed in the Bank following the procedure. There was no muster roll in the Bank for recording his attendance. He, however, cannot say who employed the concerned workman or whether he worked continuously or whether he was serving glasses of water while performing his duties. He also does not know whether the concerned workman got his service through a contractor. According to him he had heard that the concerned workman worked for 240 days in a year.

6. On the other hand, MW-1, Samir Kumar Das the witness for the management was a Clerk of the Bank posted at Bhawanipur Branch from November, 1984 to December, 2000. He has stated in his evidence that in the said Branch there was no sub-staff named Babulal Roy. He does not know whether Babulal Roy was working the Bank as a daily-rated worker. He also cannot say how he was appointed in the Bank. He has stated in his evidence that in the said Branch there was no sub-staff named Babulal Roy. The said concerned workman used to serve water amongst the staff and his work was not similar to the work of other members of the sub-staff. His attendance was not kept like the attendance of the other members of the sub-staff, but the witness has not been able to say who used to mark his attendance. He used to get @ Rs. 10 or Rs. 15 per day as his payment through petty cash voucher or miscellaneous voucher on daily-rate basis. This witness has however stated later that the concerned workman was entrusted with the Bank's work by either Jamadar or Head Peon and he used to serve water and also asked to do other jobs. According to the witness the rules applicable to the regular members of the staff are not applicable to the casual workers. In cross-examination the witness has stated that concerned workman used to work when regular members of the sub-staff were absent. The concerned workman used to work under supervision of the Jamadar and his work was also partly under the supervision of the management. He has also stated that one Sukumar Das was working in the concerned Branch as a Peon and probably he got the service after working for 240 days. He also stated about one Sital Kumar Banerjee who was working as a Water boy-cum-Peon in the Bank and in his place the concerned workman used to serve water amongst the staff members. He admitted that in such circumstance the concerned workman was virtually working in the post of

substaff. He also admitted that as per Ext. W-1 the appointing authority of concerned workman was the Branch Manager. He has further stated that probably any employee cannot apply for the post of sub-staff in the Bank unless he had worked for 240 days continuously and the rule is that after proper inspection the concerned workman's name was recommended to the Central Office.

MW-2, Kalyan Chowdhury was the Branch Manager of the concerned Branch of the Bank from November, 2003 to July, 2006 and he has seen the concerned workman working there as a Canteen Boy. He has stated that as Branch Manager he never engaged him as a sub-staff in the Branch and it was not in his knowledge for what reason the concerned workman was engaged as he was not engaged during his tenure there. During his tenure in the concerned branch there was 7 or 8 sub-staff. He could not say for how many days per month the concerned workman got the job in the Bank on daily rate basis. According to him Head Peon engages the daily labourers for Bank's Job but not the Branch Manager and Head Peon or Jamadar supervises the job of such labourers. The salary of the daily rated workers are usually disbursed through petty cash vouchers. Further, daily rated workers cannot be treated as temporary or casual workers. He has stated that the daily rated workers do not get the same facilities like the regular sub-staff of the Bank, no appointment letter is issued to them and the circulars issued by the Ministry of Finance are not applicable to them and they cannot get the benefits of the Industrial Disputes Act. He, however, does not know whether the concerned workman was paid on monthly basis because he never worked under him. According to him the concerned workman cannot be considered as a regular sub-staff of the Bank as per Bank's service norms. In cross-examination the witness has stated that he was in the Zonal Office of the Bank from September, 2000 to June, 2003 as Senior Manager, PRS. He has admitted that whatever written in Ext. W-2 regarding the concerned workman are correct. He has also stated that whatever information they receive from the Branches are sent to the Central Office of the Bank.

7. On the perusal of the aforesaid evidence led by the parties and their respective claim in this regard it is evident that the concerned workman admittedly did not work after 30th April, 1999 in the Bank. According to the workman he had worked for more than 245 days from 17th August, 1989 to 30th April, 1999 in the Bhawanipur Branch under the Calcutta South Region of the Bank till 30th April, 1999, but his services were terminated thereafter to deny him the benefit of regularisation. The management, however, has challenged the aforesaid fact by saying that he was never appointed as per recruitment rules of the Bank through Employment Exchange against permanent vacancy, but he was first engaged for supplying drinking water during the said period and for that payment was made to him through petty cash vouchers through the Head

Peon of the Bank. His engagement was intermittent and not on regular basis. His hours of work was also not like other regular sub-staff and he was paid on no-work-no-pay basis and so even if he had worked for 240 days in a calendar year there is no question of he being regularised as a regular staff as he was never appointed in any permanent vacancy of the Bank as its sub-staff. The alleged letter dated 4th September, 2000, Ext. W-1 referred to above by the workman was in fact sent by the Branch Manager of the concerned Branch who had no authority as Branch Manager to engage any person against a regular vacancy without following the formalities and procedures applicable for making such appointment like that of a regular sub-staff.

8. All these facts and evidence as led by the parties in this case show that the workman admittedly had never been so appointed by way of any regular appointment that applies to the appointment of a regular sub-staff. As per his own statement the workman himself has stated that he had joined the concerned branch of the Bank in the year 1982 as engaged by the contractor and in the year 1988 he was further engaged for posting of letters of the Bank, in the absence of the regular Peon. In the cross-examination he has admitted this fact that he was working as contractor's man in the Bank and his payment was made on daily rate basis and not through the salary register, but through the vouchers only from time to time. It was also admitted that he was not engaged in the Bank through Employment Exchange for his appointment as a regular sub-staff. So is the statement of other witness Parimal Chandra Das on his behalf who also stated that the workman had not been appointed in the Bank following the procedure as per rules and also that there was no muster roll in the Bank for recording his attendance. According to him he had only heard that the concerned workman had worked for 240 days in the Bank for a year but has got no personal knowledge about the same.

The evidence led by the management in this connection on the contrary is quite clear to show that the workman had only worked in the Bank as a daily rated worker and for that he was paid @ Rs. 10 or 15 per day through petty cash vouchers on daily rate basis. The rules applicable to the regular members of the sub-staff could not be applicable to his case. The statement given by MW-2, Kalyan Chowdhury who was the then Branch Manager of the concerned branch also go to show that as Branch Manager he had never engaged the concerned workman as a sub-staff in the Branch and for that no appointment letter was issued to him. So far as the detail information as given *vide* Ext. W-2 regarding the concerned workman, it has, however, been stated by him to be correct one which also goes to show that the workman had worked for more than 240 days in the branch in that capacity.

9. All these facts as stated on behalf of the concerned workman and his witness and the witnesses examined on

behalf of the management together with the documents clearly go to show that the workman had never been appointed as a member like that of a regular sub-staff after following the due procedure of recruitment under the rules. These also go to show that the workman had worked for more than 240 days in a year in the concerned branch as per Exts. W -1 and W2, which is so admitted by the management witness M-2, Kalyan Chowdhury as well. The nature of appointment of the workman goes to show as such that he was just a daily rated worker engaged from time to time by the Branch Manager not on any permanent post or vacancy but he was just paid a small amount through petty cash vouchers in the Bank for the service as it was so rendered by him in this regard. It also goes to show that he was not engaged by the Bank as such after 30th April, 1999. It is an admitted fact that no notice was given for such disengagement or retrenchment by the Bank though the period of more than 240 days work had been done by the workman in the Bank after which he was permanently disengaged without paying any compensation as required under Section 25F of the Act in this regard.

10. In view of the facts on record it is clear that the termination of service of the concerned workman was not in conformity with the provisions of Section 25F of the Act and it cannot be said to be legal. As regards about the relief as claimed by the workman for reinstatement with full back wages etc. it is evident that even if the termination of his services is held to be not justified as per provisions of the Act it is not necessary that in all such cases the general rule is that of reinstatement with back wages as the Hon'ble Supreme Court in number of cases has laid down about the legal principles to be applied for such cases by taking a pragmatic view in the matter and by keeping number of factors in mind viz. that an industry may not be compelled to pay to the workman for the period during which he apparently contributed a little or nothing at all. It has been held by the Hon'ble Apex Court in *Haryana Roadways v. Rudhan Singh* (2005 AIR SCW 4634) that the workman who had worked for a short period, i.e., less than a year or so and having regard to his other basic qualification etc. back wages were denied to him although the termination of his service was found to have been made in violation of Section 25F of the Act. The Hon'ble Apex Court observed that the principles to be considered for awarding back wages or compensation etc. is to be guided by number of factors to be considered for the same. It was observed that :

"There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment, i.e., whether after proper advertisement of the vacancy or inviting applications from the Employment Exchange, nature of

appointment, namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. One of the important factors, which has to be taken into consideration, is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back-wages keeping in view the fact that at his age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period, i.e., from the date of termination till the date of the award, which our experience shows is often quite large, would be inappropriate. Another important factor, which requires to be taken into consideration is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calendar year."

In *Allahabad Jal Sansthan V. Daya Shankar Rai*, (2005) 5 SCC 124: 2005 AIR SCW 2646 after considering the relevant cases on the point the Hon'ble Apex Court stated:

"We have referred to certain decisions of this Court to highlight that earlier in the event of an order of dismissal being set aside, reinstatement with full back-wages was the usual result. But now with the passage of time, it has come to be realized that industry is being compelled to pay the workman for a period during which he apparently contributed little or nothing at all, for a period that was spent unproductively, while the workman is being compelled to go back to a situation which prevailed many years ago when he was dismissed. It is necessary for us to develop a pragmatic approach to problems dogging industrial relations. However no just solution can be offered but the golden mean may be arrived at."

11. Considering the aforesaid facts and circumstances of the present case it is evident that the workman had only worked for a short period from 17-08-1998 to 30-04-1999 in the Bank as a daily rated worker and his such appointment was not like that of a regular sub-staff according to the established procedure of the Bank. He was asked by the Branch Manager to do the job of a Peon on daily rate basis for which he was paid by the Bank through petty cash vouchers. In view of the settled legal position by a recent decision of the Hon'ble Supreme Court (2006) 4 SEE 1 (Secretary, State of Karnataka & Others Vs. Umadevi(3) and Others) any person who has been so

appointed not in accordance with the proper procedure or as per recruitment rules, any such benefit of regularization or absorption cannot be extended to him merely by his long period of service in the establishment since he was not appointed as per procedure applicable to the appointment of its staff. It has been observed therein that:

"43. Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the Court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right."

In this view of the settled legal position by the decision of the Hon'ble Apex Court the concerned workman is not entitled to get any relief for reinstatement or regularisation as it is so claimed by him even if his disengagement is held to be otherwise being not in accordance with the provisions of Section 25F of the Act for want of any notice or for want of any compensation paid to him in this regard.

12. Some relief, however, deserves to be given to the concerned workman as he was not served with any notice or paid any compensation before he was so disengaged though he had admittedly so worked for 240 days in the Bank in that year vide Ext. W-2 and so it was required for the Bank to have paid him the necessary compensation as required under Section 25F of the Act. The workman as such is entitled to get the amount of compensation looking at nature and period of his work instead of granting a relief

of reinstatement to him with back wages, a lump sum compensation of Rs.15,000 (Rupees fifteen thousand) deserves to be awarded to the workman in the given facts and circumstances of the case of this nature. The aforementioned amount shall be paid to the workman by the Bank within a period of a month from the date of this Award becomes enforceable.

The reference is answered accordingly.

C. P. MISHRA, Presiding Officer.

Dated, Kolkata,
the 31st March, 2008.

नई दिल्ली, 15 अप्रैल, 2008

क्र.आ. 1046.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाद (संदर्भ संख्या 20/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-4-2008 को प्राप्त हुआ था।

[सं. एल-12012/127/2005-आई आर(बी-11)]

राजिन्दर कुमार, डेस्क अधिकारी

New Delhi, the 15th April, 2008

S.O. 1046.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 20/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Canara Bank and their workmen, which was received by the Central Government on 11-04-2008.

[No. L-12012/127/2005-IR(B-11)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Tuesday, the 26th February, 2008

Present: K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 20/2006

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Canara Bank Management and their workman]

BETWEEN

Sri M. Velayudham : Petitioner/I Party
No. 38, Vanniampathi Street
Raja Annamalaiapuram
Chennai-600028

AND

The Asstt. Manager : Respondent/II Party
Canara Bank Circle Office
563/1, Anna Salai,
Teynampet Chennai-600018

ANDAMENTS:

For the Petitioner : M/s T.R. Sathiyamphan
 For the Management : M/s. Balan Haridas,
 R. Kamatchi Sunderesan

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12012/127/2005-(IR(B-II)) dated 24-02-2006 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Management of Canara Bank in imposing the punishment of Compulsory Retirement upon Sri M. Velayudham, Ex-Clerk is legal and justified? If not, to what relief the workman is entitled to?"

2 After the receipt of the Industrial Dispute this tribunal has numbered it as ID No. 20/2006 and issued notices both sides. Both sides entered appearance through their advocates and filed their claim & counter statements respectively.

3. The allegation in the claim statement are briefly as follows:

The petitioner joined the service of the Respondent Bank as sub-staff on 19-12-1979. He was promoted as a Clerk during the year 1987. While he was working in Mowbrays Road branch, he was placed under suspension by an order dated 09-07-2002 on the allegation of some misconduct. Subsequently, charge sheet dated 18-01-2003 was issued to him. The substance of the charge is while checking with the LCCH (Local Clearing and Cash Remittance) slips dated 04-07-2002 issued by the Accounts Section, Chennai and received by the bank on 05-04-2002, there was a difference of Rs. 20,000/- and it was further alleged the petitioner tampered with the LCCR, removed the cheques already lodged in the clearing waste and thereby helped the party deriving undue pecuniary gains. The above acts has caused considerable interest/income loss to the bank and the action of the petitioner was prejudicial to the interests to the bank. A domestic enquiry was ordered to be conducted against him and in that the Enquiry Officer has given a finding dated 29-11-2003 holding the petitioner guilty of the charges levelled against him. The Disciplinary Authority imposed the punishment of Compulsory Retirement by an order dated 14-01-2004. Even though, the petitioner preferred an appeal, the same went against him. The allegations levelled against the petitioner are without any substance. He was entrusted with manual clearing work as he was not qualified to operate computers. Only the Branch Manager was discounting the cheques of M/s. Orion Form on regular basis. The cheques so discounted were issued by M/s Indian Apparels having account with Syndicate Bank, KK Nagar, Chennai. The Branch Manager, Mr. Sridharan was the person who was

receiving the cheques for being discounted from Ms. Pooja Shanmugham who was authorized by M/s Orion Forms to discount. The said Manager had been doing all kinds of undue favour to this customer for quite long period. Only based on the particulars furnished to the petitioner, he will prepare LCCR bar and also make corresponding entry in the LCCR register. After LCCR prepared by the petitioner in the first floor, it was sent to the ground floor for being signed by the concerned Officer. After LCCR being signed, they were tagged alongwith the cheques and they were put in a bag and placed inside a pigeon hole. All these processes will be completed by 1 P.M. and immediately thereafter the bag was taken from the pigeon hole by the sub-staff for delivery to the Abhiramapuram Branch for encoding. Thus, in the entire transaction, the role of the petitioner is very limited. No instruments come to him while preparing LCCR. Further, the LCCR so prepared were checked by the concerned Officer and they authorize the same. Further more, periodical LCCR Reconciliation Statement were also prepared by the petitioner and also the same has been checked and authorized by Sri Ramarathinam (Officer) and by Sri Sridharan, Branch Manager. Thus, the petitioner was not handling any of the instruments/cheques. In the enquiry, there was absolutely no evidence to the allegation that the Petitioner removed the cheques discounted by M/s Orion Forms. It is only the Branch Manager who was in the helm of the affairs had been conniving with M/s Orion Forms and the petitioner had been made a scapegoat for the illegal transaction happening at the instance of the Branch Manager. The Branch Manager after helping Orion Forms, to wriggle out the situation had disowned the entries in the LCCR. No doubt, the petitioner has altered the LCCR or prepared supplementary LCCR but only at the instance of the superiors. The witnesses examined in the enquiry were tutored by the Management to give evidence against the petitioner. The petitioner being seated in the first floor had no access the instrument. Further, the Branch Manager had recovered all the money from the customer M/s Orion Forms alongwith interest, therefore, there was no substance in the allegation that the petitioner had caused loss to the Respondent Bank. The 2nd charge in the enquiry that in the O.D. and in the S. B. Account of the petitioner, there was transaction, disproportionate to his income is also without any substance. All the transactions of the petitioner were through his O.D. A/c. The petitioner had been making repayment of all loans. All the loans were within the means of the petitioner and they were not disproportionate with his income. Though witnesses were examined on the side of the Management, none of the witnesses tendered any evidence to prove the charge levelled against the petitioner. While so, the Enquiry officer by presumption and assumption had held that the petitioner guilty of charges in a most perverse manner. Further, the Enquiry Officer had assumed the dual role of being judge-cum-prosecutor. This indicates he was biased and he was not conducted

the enquiry fairly and properly. Therefore, the findings of the Enquiry Officer is perverse, contrary to the evidence on record and without any legal basis. The Disciplinary Authority also in an illegal manner imposed the punishment of Compulsory Retirement without reference to the unblemished past record of the petitioner. As such, it is a case of no evidence against the petitioner. The Appellate Authority in a most mechanical manner confirmed the punishment of Compulsory Retirement without applying his mind. Anyhow, this Tribunal is having powers to interfere with the quantum of punishment under Section-11A of the I.D. Act and the punishment imposed is grossly disproportionate to the charges levelled against him and hence, for all these reasons the petitioner prays to reinstate him in service, backwages, continuity of service and all other attendant benefits.

4. As against this, the Respondent in his counter statement alleged the petitioner herein was worked as a Clerk at Mowbrays Road Branch, Chennai since 12-11-1988 and he was placed under suspension w.e.f. 09-07-2002 in connection with certain misconduct committed by him while working at the said branch. On a routine check-up of LCCR slips with relevant batch ticket no. 129 dated 04-07-2002, there was a difference of Rs. 20,000 noticed by the branch authorities. The branch verified the records thoroughly and after verification they found the discrepancies of LCCR slips with cheques to Accounts Section, Chennai records. M/s. Orion Forms, a partnership firm and a SSI unit was dealing with the Mowbrays Road Branch, Chennai. On perusal of LCDB records, it was giving cheques for huge sums for discounting and most of the said cheques were drawn on Syndicate Branch, KK Nagar, Chennai by M/s. Indian Apparels. The four cheques of Orion Forms were not presented till 20-07-2002 and upon verification it was observed that on several days all the cheques lodged in the clearing waste were not sent for encoding to Accounts Section, Chennai. Further, one or two cheques pertaining to M/s. Orion Forms drawn on Syndicate Bank and discounted on that day were removed after the preparation of LCCR. The LCCR copies in duplicate meant for Accounts Section were either altered or a separate LCCR for reduced amount were prepared and sent to encoding center/accounts section. On the other hand, the office copies of LCCR which was used as debit slip for the lot was not altered nor was their any alteration in the computerized account-wise summary based on which the LCCR was prepared. On investigation, it was revealed that all the alterations in the Accounts Section copies (duplicate) were done by the petitioner and LCCR for reduced amount were also prepared by him. The alteration in the LCCR were not authenticated by any official and the signature in the LCCR for the reduced amount did not belong to any of the authorized signatory of the branch. It was also found that the cheques so removed, a supplementary LCCR was prepared by the petitioner and the original LCCR and the

cheques were sent on a subsequent date to the Accounts Section, Chennai by him presumably after getting the indication from the party that the cheque could be presented. Even in the LCCR Statement and Monthly Reconciliation Statement which were prepared by the petitioner from February, 2002, he had made corrections in Monthly Reconciliation Statements also. Therefore, a charge sheet was issued to him. Further, a perusal of the petitioner's O. D. Account 10113 and S.B. A/c 30020 reveal that huge operations of high value cheques disproportionate to his net salary credited to his account were carried out having dealings with 12 financial institutions. During the course of interrogation, he was not able to give a convincing reply for his acts. Thus, by his above actions, he had caused considerable interest/income loss to the bank and there was willful damage to the property of the bank and acted prejudicially to the interests of the Respondent Bank. The Departmental Enquiry was conducted in a fair and proper manner in conformity with the principles of natural justice. The Enquiry Officer has given his finding after a detailed analysis and consideration of all relevant materials available on record and held the petitioner is guilty of charges levelled against him and the Disciplinary Authority after following the procedure have imposed the punishment of Compulsory Retirement. Therefore, the imposition of punishment is justified. There is no reason to interfere with the punishment. Purely for the purpose of escaping from liability, the petitioner has claimed that only under certain instructions, the number of instruments that were to be sent for clearing were delayed. It is the petitioner who was squarely responsible for deliberately altering the amounts mentioned in the LCCR and for withholding the discounted cheque from being sent for collection with an ulterior motive. If the petitioner is innocent as claimed by him, there is absolutely no explanation from him as to what made him to alter only the original and duplicate of the LCCR without altering the office copy knowing full well that the LCCR bar is in set of three (triplicate). Even assuming that the petitioner's role is limited, yet the same being one of crucial nature, he is supposed to have refused alteration or intimated higher officials of the bank in order to protect the interests of the bank whenever any such instructions were said to be received. Thus, the petitioner has been indulging in such activities fully knowing the consequences of the same. It is evident from the records also and from the evidences of the witnesses that the petitioner would have removed the concerned discounted cheque after leaving the branch and prior to reaching the Abhiramapuram Branch. The allegation that the amount was recovered from the customer is of no answer because the recovery of the money from the customer is immaterial. The petitioner has been indulging in tampering of records and was also responsible for causing delay in realization of the amount by the bank. The said delay has certainly caused considerable loss of income/interest to the bank. It is evident that the salary of the petitioner is in the range of

approximately Rs. 2,200 but FTVs in the range of Rs. 30,000 per month are seen debited in the account. It also came to light that clearing of high value cheque of Rs. 1,50,000 has also been credit to his S.B. A/c. Apart from that, many cheques that have been utilized for repayments of all payment to financial institutions are noticed every month in his account. The petitioner has been having transactions/dealings with 12 financial institutions. These transaction clearly shows that the petitioner has been having huge operations of high value amounts fully disproportionate to the net salary credited to his account. Therefore, the action taken by the Respondent Bank is fully justified and legal. Accordingly, the order of the Disciplinary Authority imposing the punishment of Compulsory Retirement and the order of the Appellate Authority confirming the order of the Disciplinary Authority are perfectly legal and justified. Hence, for all these reasons the Respondent prays that the claim may be dismissed with costs.

5. As against this, the petitioner in his rejoinder has alleged that the Respondent Bank in order to safeguard an Officer who had been extending the favour and to make a scapegoat for the same had proceeded against the petitioner and punishment was imposed without any justification. The petitioner has obeyed the work under the instructions of the Branch Manager and the Officer who were in the helm of affairs. Further, there is no necessity for the petitioner to alter LCCR or prepare supplementary LCCR as he has nothing to do with any of the customers. Without the knowledge of the Branch Manager or Officers, the petitioner cannot alter or prepare the LCCR or supplementary LCCR. The credit entries made in the account of the petitioner relate to borrowing made from financial institutions, therefore, the allegations to the contrary made in this regard are without any basis or substance. Hence, he prays an award may be passed in his favour.

Points for determination are :

- (i) Whether the action of the Respondent Management in imposing the punishment of Compulsory Retirement upon the petitioner is legal and justified?
- (ii) To what relief the petitioner is entitled to?

Point No. 1

6. The charge alleged against the petitioner is that when checking the Local Clearing and Cash Remittance (LCCR) slips with relevant Batch Ticket No. 129 dated 04-07-2002, there was a difference of Rs. 20,000 noticed by the bank authorities and after verification they came across with some discrepancies in the presentation of LCCR slips with cheques to Accounts Section, Chennai records and subsequently on perusal of Local Cheque Discounting records (LCDB), it was found M/s. Orion Forms, a partnership firm which was dealing with Mowbrays Road Branch have given cheques for huge sums for discounting

and most of the said cheques were drawn on Syndicate Bank branch, KK Nagar, Chennai by M/s. Indian Apparels and it was further found that some of the cheques were not presented till 20-07-2002. Further verification revealed that on several days all the cheques lodged in the clearing waste were not send for encoding to Accounts Section. One or two cheques pertaining to M/s Orion Forms drawn on Syndicate Bank, KK Nagar Branch discounted on that day were removed after the preparation of LCCR. It was further found that LCCR copies in duplicate meant for Accounts Section, Chennai were either altered or a separate LCCR for reduced amount were prepared and sent to Encoding Center/Accounts Section and it was also found office copy of the LCCR which was used as debit slip for the lot was not altered nor was there any alteration in the computerized accountwise summary based on which the LCCR was prepared. It was found the alterations in the Accounts Section copies (duplicate) were done by the petitioner and the LCCR for the reduced amounts were also prepared by him. At the same time, the alterations in the LCCR were not authenticated by anybody and further the signature in the LCCR for reduced amount do not belong to any authorized signatories of the branch. For the cheques removed, a supplementary LCCR was prepared by the petitioner and the original LCCR and the cheques were sent on a subsequent day to Accounts Section, Chennai by him presumably after getting the indication from the party that the cheque would be presented. Thus, the petitioner by his above actions had caused considerable interest/income loss to the bank and he has willful damage to the property of the bank and acted prejudicially to the interests of the Respondent bank. Since the misconduct committed by the petitioner are serious in nature, a charge sheet was issued and a Departmental Enquiry was ordered to be conducted against him. But on behalf of the petitioner, it is contended it is only the Branch Manager, one Sri Sridharan was the person who was receiving the cheques for being discounted and he alone has received the cheques from Ms. Pooja Shanmugham, the authorized person of M/s. Orion Forms. The Manager alone has been doing all kinds of undue favour to this customer for quite long period and he has also supported all these acts and misconduct. The petitioner who was seated in the first floor has no doubt prepared the LCCR bar but he has prepared this based on the particulars furnished to him and he has also made corresponding entries in the LCCR Register. On many occasions, after preparation of the LCCR bar and making entry in the LCCR Register, instructions were given to him for preparing the supplementary LCCR bar or for making alteration in the already prepared LCCR for reduced value and no reasons was given to the petitioner for preparing such supplementary LCCR or for reducing the value of the LCCRs. After its preparation, it was sent to the ground floor for being signed by the concerned Officer and after being signed by the Officer, they were tagged alongwith the cheques and they were put in a bag and placed inside

a pigeon hole. All these process will be completed by 1 PM. and immediately thereafter the bag will be taken from the pigeon hole by the sub-staff for delivery to the Abhiramapuram branch for encoding. Thus, in the entire transaction, the role of the petitioner is very limited and no instrument comes to him while preparing the LCCR. The Branch Manager who was the helm of affairs had been conniving with M/s. Orion Forms and the petitioner had been made a scapegoat for illegal transaction happening at the instance of the Branch Manager. Thus, the Branch Manager after helping M/s Orion Forms and to wriggle out the situation had disowned the entries in the LCCR. No doubt, the petitioner had altered the LCCR or prepared supplementary LCCR but it was done only at the instance of his superiors and the petitioner is in no way connected with any of the transactions of M/s. Orion Forms in Mowbrays Road branch of the Respondent Bank. It is vehemently argued on behalf of the petitioner, that the petitioner being seated in the first floor of the branch had no access to the instrument nor to the customer and therefore he cannot remove the cheques as alleged by the Respondent Bank.

6. But as against this, it was argued on behalf of the Respondent, no doubt the petitioner alleged that he has no access to the instrument because he was placed in the first floor but he has not stated before the Vigilance Officials nor before the Domestic Enquiry as to who actually intimated him over phone or through messenger to delay the instruments to be sent for clearing or who gave the bit paper or who inform him over phone advising alterations in the LCCR or asking him to send supplementary LCCR. It is clearly established before the Domestic Enquiry that no such instructions over phone or through a bit paper was given to the petitioner by any of the Officers or staff employed in the said branch at the relevant time. Therefore, it is clearly established that purely for escaping from liability, the petitioner has alleged that only under certain instructions from higher officials the number of instruments that were to be sent for clearing were delayed or the LCCR were altered or supplementary LCCR were prepared. Since the petitioner alleged that he has done these alterations by preparing supplementary LCCR, it is for him to establish before the domestic enquiry who has given the alleged instructions or who has asked him to alter the LCCR entries but on the other hand, the petitioner has not established these facts with any satisfactory evidence. Therefore, the petitioner alone who was squarely responsible for deliberately altering the amounts mentioned in the LCCR and for withholding the discounted cheques from being sent immediately for collection with an ulterior motive. No doubt, he had alleged so many things against the Branch Manager and it is also true that the Branch Manager is responsible for discounting the cheques, on that ground it cannot be presumed or assumed that he has given the instructions to the petitioner to alter the LCCR statement or to prepare a supplementary LCCR. Under such

circumstances, it is the petitioner who has all along voluntarily and deliberately without any instructions whatsoever have been making alterations in the LCCR and has prepared the supplementary LCCR as contended by the Respondent Bank. Further, if really the petitioner is innocent as claimed by him, there is absolutely no explanation from him as to what made him to alter only the original and duplicate of the LCCR without altering the office copy knowing fully well that the LCCR bar is in set of three copies. Thus, it is clearly established in preparing the LCCR, the role of the petitioner is certainly crucial. In that, he is required to prepare LCCR and only he the record retained by the bank with respect to the cheques which are sent for clearing. As such to make a alteration in the LCCR or preparing supplementary LCCRs, after the original preparation of LCCRs in triplicate and forwarding one copy of the same to the Accounts Section of the bank alongwith the cheques sent for clearance is certainly unbecoming of a responsible clerk whose duty is to simply prepare the LCCR strictly after the instruments being posted in the computer/machine by the clearing clerk and based on the computer summary of the headwise details only. While so, even assuming that the petitioner's role is limited yet the same being one of a crucial nature, he is supposed to have either refused to make the alterations or intimated the higher officials of the bank in order to protect the interests of the bank whenever any such instructions were said to be received. But on the contrary, the petitioner has been continuously altering the LCCR and preparing supplementary LCCRs which clearly established that there are absolutely no such instructions were given as alleged by him. Further, even in the Departmental Enquiry he has failed to disclose as to who were the Officers or persons who gave such instructions. Thus, the petitioner has been indulged in such activities knowing fully well the consequence of the same.

7. But on behalf of the petitioner it was again argued that the petitioner whose duty is to prepare the LCCR as per the instructions and, he has nothing to do with any of the transactions alleged by the Respondent Bank and in the Domestic Enquiry there was no evidence of any sort to the effect that the petitioner removed the instruments which were discounted for M/s. Orion Forms. The instruments alongwith the LCCR Bar were in a bag and placed in the pigeon hole and the sub-staff Mr. Dayanidhi had clearly stated in the enquiry that there was no opportunity to anybody to meddle with the instrument when the same was in his custody. Neither the Branch Manager nor Mr. Ramarathnam who had been taking care of the entire LCCR nor Mr. Dayanidhi who had been carrying the bag consisting of LCCR and instruments were not questioned in respect of delay in sending the instrument which had been discounted for M/s. Orion Forms. On the other hand, the petitioner who had nothing to do with the delay in sending the discounted cheques for clearing had been

charge sheeted without any basis and an extreme punishment of compulsory retirement had been imposed on him. When it is his evidence that the alterations in the LCCR, preparation of supplementary LCCR and alteration in the LCCR register were done as per the instruction's from the Branch Manager or the Officer, no action was taken against the Branch Manager or the Officers. Further, the weekly LCCR Statement and Monthly Reconciliation Statement which were prepared by the petitioner have not been questioned either by the Branch Manager or by Ramarathinam. It is not questioned because LCCR alteration and supplementary LCCR were made under their instructions, therefore, the allegation that the petitioner tampered with the LCCR is without any substance and the Respondent Bank has not proved the allegations with any satisfactory evidence in the Domestic Enquiry and the Enquiry Officer has come to the conclusion with presumption and assumption. Further, it is argued that the Branch Manager had recovered all the money from the customer, M/s Orion Forms alongwith interest and therefore there was no substance in the allegation that the petitioner has caused loss to the Respondent Bank. Therefore as such the petitioner is not in any way responsible for the alterations and the preparation of the supplementary LCCR or alterations in the LCCR register and therefore the punishment imposed on the petitioner is illegal.

8. With regard to the second charge, It is further argued on behalf of the petitioner, even though the Respondent Bank alleged that in the Overdraft Account (OD) and the Savings Bank Account of the petitioner there had been transaction disproportionate to his income, in the Domestic Enquiry the petitioner had produced document to show that there had been no brisk transaction disproportionate to his income. And on 02-01-2002, the petitioner has taken a loan for Rs. 39,200 from Countrywide Finance and Rs. 24,500 on 03-01-2002 towards puberty function of his daughter. It is established that he had received Rs. 15,000 on 18-01-2002 from his Current Account and on 05-03-2002, he had received Rs. 26,000 in his account which was towards rental advance. The petitioner had borrowed Rs. 75,141 on 09-03-2002 and the same was returned to Mr. Thangamani, the Ex Manager. Similarly, on 16-05-2002, he has availed a loan for Rs. 86,602 from Cholanmandalam Finance for purchase of a car and all these transactions of the petitioner were done through his OD Account and the petitioner had been making repayments of all loans and all the loans were within the means of the petitioner and they were not disproportionate to his income. It is further argued on behalf of the petitioner that apart from the salary income the petitioner having received a rental income of Rs. 7,000 per month and he and his wife was also earned substantial amount through her cab services. Therefore, there is no substance in the contention of the Respondent Bank that he was guilty of the second charge alleged against him.

9. As against this, on behalf of the Respondent it is contended there is no substance in the contention of the petitioner that he has nothing to do with the removal of the instrument from the bag. In the Domestic Enquiry, the Branch Manager, the Officers and the Peon who were examined as MW5, MW2 and MW4 clearly stated the petitioner was entrusted with the work of taking the instruments/cheques to Abhiramapuram branch on quite a few occasions on way to his house for lunch. Further, the petitioner himself has admitted at the time of interrogation before the Investigation Officer that on some occasions he had also taken the instruments to Abhiramapuram branch on his way to his house for lunch. While this being the admitted fact, it is false to allege that there is no scope for him to remove any of instruments when the petitioner has admitted that he had made the alterations in the LCCR and also prepared supplementary LCCR. It is only the bounden duty of the petitioner to prove that they were done only on the instructions of the higher officials. But on the other hand except the held allegation, he has not established this fact with any satisfactory evidence. The question of recovery of the money from the customer is immaterial. The petitioner who has been indulging in tampering of records and was also responsible for causing delay in realization of the amount by the Bank by ensuring that the discounted cheque is sent for clearance belatedly. Thus, the said delay has certainly caused considerable loss of income/interest to the Bank, therefore there is no substance in the contention of the petitioner that he has not caused any loss to the Respondent Bank. With regard to his transactions disproportionate to his income, it is clear and on perusal of his OD and SB Account that he has received a net salary in the range of approximately Rs. 2,200 per month but FTVs in the range of Rs. 30,000 are seen debited from his account. It is also clear that a high value cheque of Rs. 1,50,000 has been credited to his SB A/c, that apart many cheques that have been utilized for repayments of card payment of financial institutions every month from his account. It is also clear that he has transaction/dealings with about 11 financial institutions and these transactions will clearly show that the petitioner is having huge operations of high value amounts fully disproportionate to the net salary credited to his account without prior permission or authority. Thus, the petitioner not having performed his duties properly and having indulged in the tampering of records, causing delay in, sending the cheques for clearing has been made responsible for causing loss/interest to the Bank. Therefore, the action taken against him by the Respondent Bank is fully justified and therefore the petitioner is not entitled to any relief as claimed by him.

10. On consideration of the entire evidence in this case and also the arguments of the learned counsels of both sides, I am of the opinion the arguments put forth by the counsel for the Respondent is well founded. When the petitioner has admitted that he has made the alteration and

also prepared supplementary LCCR and altered the LCCR Register, therefore, the burden of proving that he has made these things only on the instructions of the Branch Manager or the Officers of the Bank but as I have already stated except the wild and held statement that he has made these things only on the instructions of the Officers or the higher-ups, he has not specifically stated who has instructed him to alter the LCCR bar or to prepare a supplementary LCCR or to alter the LCCR Register. Under such circumstances, I am of the opinion that only to wriggle out the situation the petitioner has made the allegations that he has made the alteration and also prepared the supplementary LCCR on the instructions of the higher officials. Therefore, I am not inclined to accept the contentions of the petitioner that he was innocent and he has nothing to do with the charges alleged against him. As such, I find this point against the petitioner.

Point No. 2

The next point to be decided in this case is to what relief the petitioner is entitled?

11. In view of my foregoing findings that the action of the Respondent Management in imposing the punishment of Compulsory Retirement against the petitioner is legal and justified, I find the petitioner is not entitled to any relief.

12. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 26th February, 2008)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

For the I Party/Petitioner : None

For the II Party/Management : None

Documents Marked:

On the petitioner's side:

EX.No.	Date	Description
ExW1	-	LCCR Register Folio 28-02-2002 to 04-07-2002 (Ex. ME3)
ExW2	-	LCDB Register, Folios From 30-11-2001 to 21-06-2002 (Ex. DE1)
ExW3	-	Statement of accounts of M/s Orion Forms from November 2001 to December 2002 (Ex. DE2)
ExW4	-	Pass Sheet of M/s Pooja Shanmugham, SB A/c No. 32467 from 01-01-2002 to 30-07-2003 (Ex. DE3)

On the Management's side

Ex. No	Date	Description
EX.M1	18-01-2003	Charge Memo
Ex.M2	-	Enquiry Proceedings
Ex.M3	28-11-2003	Enquiry findings
EX.M4	29-11-2003	Letter to 1st Party forwarding enquiry findings
Ex.M5	12-01-2004	Proceedings of the personal hearing given to the 1st Party
EX.M6	14-01-2004	Order of Punishment
Ex.M7	11-02-2004	Appeal petition preferred by 1st Party
EX.M8	17-09-2004	Orders of the Appellate Authority
EX.M9	29-09-2004	Proceedings of the Deputy General Manager
Ex.M10	ME1	Batch Ticket
EX.M11	ME2	LCDB Orient Forms
EX.M12	ME 4 & 5	Debit slips -local clearing and cash remittance slip
Ex.M13	ME6	Statement of Account for the period from 01-11-2003 to 07-11-2003
EX.M14	ME7	Outward clearing waste
Ex. M 15	ME8	LCCR re-conciliation statement for February, 2002
EX.M16	ME9	Report on actual/suspected/ attempted frauds (to be submitted by branches)
Ex.M17	ME10	Letter from Manager, Mowbrays Road branch to DGM Circle Office, Chennai
EX.M18	ME11	Letter from Manager, Mowbrays Road branch to DGM Circle Office, Chennai
EX.M19	ME12	Statement of allocation of work to the staff
EX. M20	ME13	Investigation Report submitted by Investigation Officer

नई दिल्ली, 16 अप्रैल, 2008

SCHEDULE

क्र.आ. 1047.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै.बी.सी.सी.एल. के प्रबंधकों के संग्रह नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II) बनबाद के पंचाट (संदर्भ संख्या 17/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-20012/397/2000-आई.आर. (सी-1)]

लेह लता जवास, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1047.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2001) of the Central Government Industrial Tribunal (No. II), Dhanbad now as shown in Annexure in Industrial Dispute between the employers in relation to the management of M/s B.C.C.L. and their workman, which was received by the Central Government on 16-4-2008.

[No. L-20012/397/2000-IR(C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD****PRESENT**

Shri Nagendra Kumar, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

Reference No. 17 of 2001

PARTIES: Employers in relation to the management of M/s. BCCL and their workman.

APPEARANCES

On behalf of the workman : Mr. T.P. Jha, Advocate

On behalf of the employers : Mr. S.N. Sinha, Advocate

State: Jharkhand

Industry: Coal

Dhanbad, the 1st April, 2008

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/397/2000-IR(C-I) dated, the 25th January, 2001.

"Whether the action of the management of Putki Colliery of M/s. BCCL, Dt. Dhanbad in not accepting the date of birth of Sri Pundeo Upadhyaya as 10-6-54 as per his Mining Sirdar, Certificate and with reference to I.I.No.76 of JBCCI is justified? If not, to what relief is the workman concerned entitled?"

2. The case of the concerned workman as disclosed in the Written Statement in short is that the management had permitted concerned workman following the norms of Mines Act, 1952 to appear in Mining Sirdar Certificate examination conducted by the D.G.M.S. in the year 1981. He was declared successful candidates under the provision of Mines Act, 1952 and Coal Mines Regulation, 1957. The Director General of Mines Govt. of India issued him a Sirdarship certificate which is a Statutory Certificate to hold the post of Mining Sirdar which indicates his date of birth as 18-7-54. As per requirement of Mining Sirdars and accepting genuineness of the certificate and its validity the management conducted a selection test for Mining Sirdars and he was declared a fit candidate in the year 1981 and was given work as Mining Sirdar which is a statutory post. It is the further case of the workman that due to variation of entries in different records specially with regard to age made in statutory records and certificate the matter was discussed at National Coal Wage Board level on 16-1-1981. As per decision Implementation Instruction No. 37 was issued. With regard to age determination there was further discussion at Joint Bipartite level in 1988 and the JBCCI issued further instruction called as I.I.No. 76 giving clean cut guidelines to all the Coal Companies that Mining Sirdarship, Winding Engine or other statutory certificates where the Manager had certified the date of birth will be treated as authentic. The concerned workman was in employment of the company since 16-1-73. He could not appear in the Mining Sirdarship certificate examination without being recommended by the Manager of the colliery and accordingly the provision of 1-1-76 is fully applicable in his case and the BCCL management has no right to make any change whatsoever in accordance with the provisions as contained in I.I.No. 37 or I.I.76. After receipt of I.I.76 issued by JBCCI for implementation considering the Mining Sirdarship certificate as well as statutory certificate, the BCCL Management issued office Order No. 183 dt. 13-6-89 informing the candidate that his date of birth as Mining Sirdarship certificate has been corrected as 10-6-54. From further statement made in the W.S. of the concerned workman it appears that inspite of the provision of JBCCI circular the BCCL management in the Form B Register changed the date of birth which was communicated vide Memo. No. 10109 dt. 3/5-7-99 is illegal, mala fide, unjustified and motivated. It appears that as per case of the concerned workman, Shri Pundeo Upadhyaya the date of birth recorded on the Statutory Mining Sirdarship certificate and corrected by the local management vide office order

dt. 13-6-89 in accordance with the provision of I.I No. 76 is to be treated as final.

3. Management has filed W.S. denying all the claims and allegations made by the concerned workman in his W.S. The concerned workman was appointed as Haulage Operator on 14-6-73 and at the time of employment his age was recorded in the Form B Register as well I.D. Card Register as February, 1949 in which he has signed as token of acceptance. He was literate who can read and write English. He has not submitted the documentary evidence in support of his date of birth before the Chairman of the Board of Mining Examination and recorded his date of birth as 10-6-54 which is totally false and without any basis.

During the period from 1973 to 1981 he never objected about recording of date of birth in Form B and I.D. Card. After passing Mining Sirdarship Examination he requested for correction of his date of birth. The matter was put up before the competent authority and the same was regretted vide letter dt. 10-12-1999 which was issued by the G.M. I/C (P & R), BCCL Koyla Bhawan. So far question of I.I. 76 of JBCCI is concerned it has been mentioned that the age recorded in Matriculation Certificate and in Mining Sirdarship Certificate Examination will be accepted who have passed before the appointment but not after the appointment in employment. As per para 37 of the certified Standing applicable for BCCL that the entry of date of birth made in service record of the establishment shall be the sole evidence of his age in relation to his service including fixation of the date of his retirement from the service of the establishment.

4. In the rejoinder portion the statements made in para 1,2,3,4 and 5 of the W.S. of the concerned workman it is said that these are matter of record and anything contrary are denied. About para-6 it is said that the same is denied and there is no variation in recording the date of birth. About para 7,8,9 it is said that the concerned workman entered in his service on 14-6-73 and he put his signature in Form B Register where his date of birth has been mentioned as February, 1949 and the question to consider the case under JBCCI I.I.No.76 does not arise. The statement made in para 10 and 11 has been denied and it has been clarified as to how there is no merit in the case of the concerned workman and prayer has been made to reject the claim of the concerned workman.

5. A rejoinder has also been filed by the concerned workman. It has been further stated the details as to how the claim of the concerned workman is justified and he is entitled for the relief and to pass Award in favour of the concerned workman to correct the date of birth as on 10-6-54 in the Form B Register.

6. POINTS TO BE DECIDED:

"Whether the action of the management of Putki Colliery of M/s. BCCL. Dt. Dhanbad in not accepting the date of

birth of Sri Pundeo Upadhyaya as 10-6-54 as per his Mining Sirdar, Certificate and with reference to I.I.No.76 of JBCCI is justified? If not, to what relief is the workman concerned entitled?"

7. The concerned workman in support of his claim has produced himself as WW-1 and another witness Vijay Shankar Pandey as WW-2. On his behalf Ext. W-1 certificate of Mining Sirdarship issued by DGMS, Ext. W-2 letter dt. 13-6-89 issued by the Agent, Putki Colliery, Ext. W-3 Service Excerpt, Ext. W-4 record note of discussion dt. 16-11-97, Ext. W-4/1 Implementation of agreed points of discussion dt. 16-11-97 and the correction of date of birth by the Authority of the colliery Ext. W-5 have been brought on record. On behalf of the management one witness Robert Lakra has been examined as MW-1. Copy of Form B Register Sl. No. 2641 as Ext. M-1, date of birth of the concerned workman in Service Excerpt Ext. M-2, letter addressed to the ALC (C) by the Project Officer Ext. M-3, letter issued in the name of Dy. Chief P.M. BCCL on 23/24-11-2000 marked as Ext. M-4, date of birth recorded as Feb., 1949 in Form B Register as Ext. M-5, photograph and signature of the concerned workman marked as Ext. M-5/1 have been brought on record.

8. In support of his claim the concerned workman during the course of his evidence has stated that he passed the Mining Sirdarship Examination in the year 1981. He produced Mining Sirdarship Certificate which is Ext. W-1 and according to this his date of birth is 10-6-54. His application for appearing as Mining Sirdar Examination was forwarded to the D.G.M.S. and the examination was held by the DGMS. Thereafter he got his posting as Mining Sirdar in the month of September, 1981 at Bahihari Colliery. He submitted application to the management for correction of his date of birth as per date of birth recorded in the Mining Sirdar Certificate, as 10-6-54 which was corrected. In the year 1987 management issued a service excerpt where his date of birth was recorded as 1-2-1949. After this he submitted representation to the management to correct his date of birth but the management refused to correct the same. He also submitted application to the Headquarters for correction of date of birth as per date of birth recorded in the Mining Sirdar Certificate. There had been a discussion on 16-11-97 regarding implementation of agreed points. The management corrected the date of birth of the Mining Sirdars of Putki Colliery as per JBCCI circular. The date of birth of some Mining Sirdars as per JBCCI was corrected but it was refused so far as the concerned workman is concerned. His claim is justified. He raised industrial dispute which ultimately resulted reference to this Tribunal. During cross-examination he has stated that in the year 1973 he got his appointment as Putki colliery as Haulage operator. His all particulars including date of birth were recorded in the Form B Register. He admitted the entries made as Sl. No. 2641 in Form B Register and his date of birth recorded therein as 1949. His photograph was also signed and attested.

He read upto Class VII. It is not a fact that the date of birth recorded in the Form B Register is correct. He has no any paper except Mining Sirdar Certificate to show that his date of birth is 10-6-54. He has denied the suggestion that he is suppressing the original date of birth and has arranged to record his date of birth as 10-6-54 in the Mining Sirdar Certificate. He has further stated that for correction of date of birth recorded in the Form B Register he never raised any protest till obtaining of Mining Sirdar Certificate.

9. As far as the evidence of WW-1 is concerned it appears that his date of birth has been recorded as February, 1949 in the Statutory Form B Register. It also appears that he has put his signature where entries have been made. From perusal of Ext.M-1 as well as Ext.M-5 and M-5/1 as well as evidence of this concerned workman it appears that the photograph of the concerned has been pasted in the Statutory Form B Register. He has put his signature. From his evidence it also appears that for the first time his date of birth was recorded as 10-6-54 in the Mining Sirdarship Certificate and on this basis his date of birth was corrected. However, it also appears that he was appointed in the year 1973 and he did not raise any objection or take any step for correction of his date of birth till he passed the Mining Sirdarship examination in the year 1981. However, on the basis of entry made in Mining Sirdarship examination an order was issued regarding his correction of date of birth by the Agent, Putki Colliery on 13-6-89 in terms of Implementation Instruction No. 76 of JBCCI vide Ext. W-2. However, later it also appears that a Service Excerpt on 15-5-87 was issued to the concerned workman in which there is mention of date of birth as 1-2-1949. In this Service Excerpt he has written that his date of birth is 16-6-54 (and not 10-6-54) and due to mistake in Form C and I. D. Card the date of birth has been mentioned as 1949. Therefore, the date of birth may be corrected. It further appears from his evidence that he had submitted a representation regarding change of his date of birth. However, the management refused to correct his date of birth.

10. From the evidence of WW-2 it appears that at Putki Colliery the date of birth of 9 Mining Sirdars were corrected as per date of birth recorded in Mining Sirdar Certificate. However, when he has put question by the Court he has admitted that Form B Register is the Statutory Register as per Mines Act. The particulars including the date of birth recorded therein are binding on both sides. He has further stated regarding issuance of Service Excerpt in the year 1987 which was different from the date of birth recorded in Mining Sirdar Certificate. From the evidence of this witness it appears that in the year 1987 Service Excerpt was issued in which there was different date of birth than the date of birth mentioned in the Mining Sirdarship Certificate. Though he has stated about wrong entry of date of birth in Service Excerpt but he had not disclosed

any fact/material document on the basis of which he is saying that he has knowledge about the date of birth of the concerned workman in any other way other than the date of birth recorded in Mining Sirdar Certificate. From the evidence and materials on record it does not appear how he is aware of date of birth of the concerned workman beside the entry made in Mining Sirdar Certificate.

11. MW-1 who has deposed on behalf of the management has denied the claim of the concerned workman. From his evidence it also appears that the concerned workman raised objection regarding date of birth after receipt of Service Excerpt on the year 1987. As per clause 37 (v) of Certified Standing Orders for workman of Establishment under BCCL the workman should have raised objection about his date of birth recorded in Form B Register within 3 months from its recording. The claim of the concerned workman is not justified. During cross-examination he has stated about the forwarding of application for appearance in the Mining Sirdar examination through the department to the DGMS. He has also stated that he has no knowledge about the change of date of birth as per date of birth recorded in the Mining Sirdar Certificate. On recall he has stated about the entries made in relation to the concerned workman and his signature which are Ext.M-5 and M-5/1. He has also stated that there is no interpolation or any mark in the Register. During cross-examination he has denied the suggestion that instead of recording the date of birth as 10-6-54 wrongly the date of birth has been recorded as February, 1949.

12. Much argument has been advanced on behalf of the concerned workman that his date of birth has been recorded as 10-6-54 in the Mining Sirdar Certificate and his application was sent through the management to the D.G.M.S. for his appearance in the examination. Thereafter his date of birth was corrected in accordance with the Implementation Instruction No. 76 of JBCCI by the Agent Putki Colliery.

13. It appears that in Mining Sirdar Certificate which has been issued on 16-10-81 the date of birth of the concerned workman has been mentioned as 10-6-1954. This fact has not been disputed as well as this also appears from Ext. W-3 that the date of appointment of the concerned workman was 16-1-73. Thus it appears that this is not the first occasion regarding the entry of date of birth in any statutory document. In the Form B Register which is a statutory document the date of birth has been recorded as February, 1949. This fact has also not been disputed. In this statutory Form B Register there is also photograph of the concerned workman and there is also signature of the concerned workman which has been admitted by the concerned workman. There is nothing on the record to show that the concerned workman has raised any objection/protest between the period of his appointment

and appearing at the time of examination in the year 1981. Curiously enough nothing has been explained that how the date of birth 10-6-54 has been mentioned in the application which routed to the D.G.M.S. through the management. No witness has been examined or no any material has been brought on record to show the circumstances as to how the date of birth 10-6-1954 was mentioned in the Mining Sirdar Certificate. No any other document has been brought on record to support the date of birth as 10-6-54 of the concerned workman. On the other hand in the Service Excerpt the concerned workman has himself mentioned that his date of birth 16-6-1954 (and not 10-6-1954) and due to mistake in the Form C and in I.D. Card 1949 has been mentioned. Thus it appears that the date of birth February, 1949 of the concerned workman was not mentioned only in Form B Register rather in many other statutory register. As stated earlier, there is nothing to show that the concerned workman had raised any objection at least before 1981. On the other hand it appears that the concerned workman gave representation for its correction in the year 1987 after he received the Service Excerpt. It further appears vide Ext. W-2 that his date of birth was corrected vide Ref. No. EC/TD/89/183 dt 13-6-89 as 10-6-54 instead of 1-2-1949 as recorded in the Mining Sirdar Certificate. However, it has been mentioned that this has been issued with the approval of the Personnel Manager, Putki Bahihari Area. Nothing has been shown that the Manager, Personnel, P.B. Area is the competent authority. On the other hand from the evidence of the management witness and Ext.M-4 as mentioned in para-7 the representation regarding correction of date of birth was put up before the Competent authority and the same was rejected vide letter dt.10-12-99 issued by the General Manager, Incharge, P & I.R., Koyala Bhawan. Thus it appears that with regard to the change of date of birth the competent authority had considered the matter and had rejected the same in the year 1999.

14. Para-37 Clause (v) of the Certified Standing Order for the workman of Establishments under BCCL speaks as follows:—

“The date of birth of a workman, once entered in the service card of the establishment shall be the sole evidence of his age in relation to all matters pertaining to his service including fixation of the date of his retirement from the service of the establishment. All formalities regarding recording of date of birth shall be finalised within three months of the appointment of a workman.”

15. Nothing has been stated on behalf of the concerned workman that any dispute/representation was filed within three months of the appointment of the concerned workman for correction of date of birth. However, it has been argued that his date of birth should be treated as 10-6-54 in accordance with the provision contained in Implementation Instruction No. 76. It has been submitted on behalf of the management that this is not applicable in

the case of the employee who is already in service.

16. While going through copy of the Implementation Instruction No. 76 it appears that clause (A) deals regarding the matter of determination of age at the time of appointment while clause (B) relates review/determination of date of birth in respect of existing employees. This appears to be relevant for the purpose of disposal of this case and the concerned workman has also relied on the provision contained in this Clause. Relevant portion of this Clause B reads as follows:—

(B) Review/determination of date of birth in respect of existing employees.

(i) (a) In the case of the existing employees Matriculation Certificate or High Secondary Certificate issued by the recognised Universities or Board or Middle Pass Certificate issued by the Board of Education and or Department of Public Instruction and admit cards issued by the aforesaid Bodies should be treated as correct provided they were issued by the said Universities/Boards/ Institutions prior to the date of employment.

(i) (b) Similarly, Mining Sirdarship, Winding Engine or similar other statutory Certificates where the Manager had to certify the date of birth will be treated as authentic :

Provided that where both documents mentioned in (i) (a) and (i) (b) above are available, the date of birth recorded in (i) (a) will be treated as authentic.

(ii) Wherever there is no variation in records, such cases will not be reopened unless there is a very glaring and apparent wrong entry brought to the notice of the Management. The Management after being satisfied on the merits of the case will take appropriate action for correction through Determination Committee/Medical Board.

17. Much argument has been advanced that in accordance with clause (i) (b) the date of birth should be treated as 10-5-54 which has been entered in the Mining Sirdar Certificate.

18. In the instant case as mentioned the date of birth has been stated as 10-6-54 in the Mining Sirdarship examination. It further appears that this date of birth has been corrected instead of 1-9-49 vide Ext.W-2 by the Personnel Manager, P.B. Area. It has already been mentioned that it does not appear that the Personnel Manager of P.B. Area is the competent authority to decide the age dispute whereas from Ext.M-4 it appears that the competent authority has rejected the prayer for correction of date of birth.

19. However, the provision (i) (b) of the Implementation Instruction No. 76 shows that Matriculation certificate will be treated authentic in case Mining Sirdarship certificate is also available. In the instant case the Matriculation certificate has not been filed probably due

to the reason that the concerned workman is not a Matriculate. However, it further appears that in case there is no variation in the record such cases are not re-opened unless there is very glaring and apparent wrong entry brought to the notice of the management. Thereafter on satisfaction of the management appropriate action for correction through age determination committee/medical board has to be taken. From perusal of clause C of the said Implementation Instruction No. 76 shows that in case the date of birth cannot be determined in accordance with the procedure mentioned in (B) (1) (a) or (B) (1) (b) above the date of birth recorded in the records of the Company viz. Form B Register C.M.P.F. records and I.D. Card will be treated as final. It also appears that in case there is variation in these records the matter will be referred to the age determination committee/medical board constituted by the management for determination of the age.

20. From the evidence and materials available on record it appears that it is not a case of the concerned workman that his date of birth recorded in Form B Register, C.M.P.F. records and I.D. Card there is variation. From plain reading of the entire provision contained in the Implementation Instruction No. 76 it appears that when there is dispute regarding entry of date of birth in different records of the management then only further steps regarding age determination has to be taken by the management and that too through age determination committee/medical Board constituted for this purpose. Thus it appears that the entry regarding date of birth made in Mining Sirdarship certificate is the basis of the review of date of birth only in a particular circumstance which is not the case here.

21. To sum up, the following facts have been noticed:—

(1) "10-6-1954" date of birth has been mentioned in the Mining Sirdar Certificate of the concerned workman. Nothing has been stated or no material has been brought on record to show as to how the date of birth mentioned regarding the basis of date of birth as 10-6-1954 of the workman.

(2) Vide Ext. W-2 dt. 13-6-89 as per office order the date of birth has been corrected as 10-6-54 instead of 1-9-1949 on the basis of Mining Sirdarship Certificate and further order has been issued with the approval of the Personnel Manager, P.B. Area who does not appear to be the competent authority. In the services records i.e. in the Form B Register and in other document and in the Service Excerpt Ext. W-3 the date of birth of the concerned workman has been mentioned as 1-2-1949. In the Form B Register there is photograph of the concerned workman and he has also put his signature at the time of appointment but no objection has been raised earlier.

(3) It appears that competent authority has rejected for correction of date of birth of the concerned workman during the year 1999.

(4) As per Implementation Instruction No. 76 the date of birth can be reviewed only when there is variation in the Form B Register, CMPF and I.D. Card which is not the case here and that too the matter has to be referred to age determination committee/Medical Board.

22. One further point has been raised by the concerned workman that the date of birth of some other workman has been corrected on the basis of entry of date of birth made in the Mining Sirdarship Certificate in spite of the fact that the date of birth mentioned in the Form B Register was different. In this context Ext. W-5 has been referred. From perusal of Ext. W-5 it does not appear what were the other facts and circumstances on the basis of which such correction were made. It also does not appear that the case of those workmen is standing on the same footing, of the concerned workman. Hence on the basis of Ext. W-5 the concerned workman cannot be granted relief particularly in the facts and circumstances mentioned above.

23. Besides the above facts the concerned workman has raised the dispute and has prayed for correction of date of birth at the fog end of career after long lapse of time.

24. Ld. Lawyer for the management has filed a number of decisions report in 2001 Lab I.C. page 28, FLR 2007 (113) page 105, FLR 2007 (140) page 9426, FLR 2007 (112) page 114, 2001 Lab I.C. 1400, FLR 2008 (116) page 673 to show that the prayer to correct the date of birth cannot be raised at the fog end of career. From perusal of the aforesaid judgment of the Hon'ble Courts it appears that at the fog end of career the prayer to change date of birth as recorded in the service record cannot be allowed. However, in this particular case the facts and circumstances are different. In the instant case wrong change of date of birth/correction of date of birth has been claimed on the basis of entry made in the Mining Sirdarship Certificate which is a statutory certificate issued by the D.G.M.S. and also the date of birth was corrected by the Agent, Putki Colliery in the year 1989. However, the prayer for change of date of birth was rejected by the competent authority. In this particular case the concerned workman had taken steps for correction of date of birth on receipt of Service Excerpt. So the facts and circumstances are different in this particular case but from the decisions referred to above it appears that change of date of birth cannot be made at the fog end of service career which is also the case here.

25. In the facts and circumstances of the case the concerned workman is not entitled to get any relief. Accordingly the following Award is rendered:—

"The action of the management of Putki Colliery of M/s. BCCL, Dt. Dhanbad in not accepting the date of birth of Sri Pundoo Upadhyaya as on 10-6-54 as per his Mining Sirdar Certificate and with reference to I.I. No. 76 of JBCCI is justified. Consequently, the concerned workman is not entitled to get any relief."

NAGENDRA KUMAR, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

AWARD

का.आ. 1048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. टिस्को के प्रबंधन के संबद्ध नियोजकों और उनके कार्यकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II) धनबाद के पंचाट (संदर्भ संख्या 30/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-20012/15/96-आई.आर.(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/97) of the Central Government Industrial Tribunal (No. II), Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. TISCO and their workmen, which was received by the Central Government on 16-4-2008.

[No. L-20012/15/96-IR(C-I)]
SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD

PRESENT

SHRI NAGENDRA KUMAR, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act, 1947.

Reference No. 30 of 1997

PARTIES: Employers in relation to the management
of Digwadih Colliery of M/s. TISCO and
their workman.

Appearances:

On behalf of the workman: Mr. P. M. Prasad, Advocate

On behalf of the employers: Mr. D. K. Verma, Advocate

State: Jharkhand

Industry: Coal.

Dated, Dhanbad, the 4th April, 2008

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/15/96-IR (C-I) dated, the 5th March, 1997.

SCHEDULE

"Whether the action of the management of Digwadih Colliery of M/s. TISCO in dismissing Shri Bharat Singh, Sr. Tramner from service is justified? If not, to what relief is the concerned workman entitled?"

2. The case of the concerned workman in short is that a false and vague chargesheet was issued against him. He is innocent and has been victimised as he was claiming his right on transfer from 6/7 Pits Jamadoba Colliery to Digwadih Colliery. The management did not take into consideration the explanation of the concerned workman and did not assign any reason for declaring the same unsatisfactory. The Enquiry Officer was biased. No fair and proper enquiry has been held in accordance with the principle of natural justice. The concerned workman was not given opportunity to cross-examine the management's witness and to lead evidence in his defence. He had joined service in the year 1974. He has been dismissed for depriving of Gratuity, P.F. and other benefits. Prayer has been made to reinstate the concerned workman in service setting aside the order of dismissal with continuity of service and all back wages and benefits.

3. On the other hand the management has filed W.S.-cum-Rejoinder stating therein that the present reference is not legally maintainable. The concerned workman while as Sr. Tramner at 6/7 Pits Colliery in the year 1992 was transferred to Digwadih Colliery w.e.f. 1-6-92. He was issued letter dt. 28-3-92 for his posting in the Digwadih Colliery on 1-6-92. He was also released from 6/7 Pits Colliery by letter dt. 30-5-92. Thereafter he did not report at Digwadih Colliery on 1-6-92 and continued absenting from his duty after receipt of letter of release dt. 30-5-92. Several directions were given to him to report to Digwadih Colliery but he refused to carry out the order of transfer even after his release from 6/7 Pits Colliery and continued absenting from his duties without permission and information. Accordingly management issued a chargesheet dt. 11-1-94 under clauses 19(1) and 19 (16) of the company's Standing Order for disobedience of instructions and absenting without permission and satisfactory cause for more than 10 days. The concerned workman submitted reply on 1-2-94 which was found unsatisfactory and enquiry officer was appointed to conduct a departmental enquiry. Several notices were sent to the concerned workman to participate in the enquiry but he did not participate and avoided to

receive the letter of enquiry. Notices were also published in the newspaper. Finding no other alternative an ex parte enquiry was held and enquiry report was submitted which is dt. 11-6-94 and the concerned workman was found guilty of the charges levelled against him. After examination of the enquiry proceedings and all related document the order of dismissal was passed against the concerned workman with effect from 15-6-94. Fair and proper enquiry was held. The concerned workman was dismissed from service on earlier occasion for commission of misconduct under clause 19 (6) of the Company's Standing Order. An industrial dispute was raised over his dismissal for which there was a reference to Industrial Tribunal for adjudication bearing No. 101/1981. An Award was passed on 18-6-86 directing the management to reinstate the concerned workman with 50% back wages as measure of good gesture. The concerned workman was reinstated after the award and 50% back wages was paid. The concerned workman deliberately avoided to join at Digwadih Colliery after his transfer and release from 6/7 Pits colliery with some ulterior motive and remained absent for his personal work and has raised the present dispute after his dismissal with the motive of earning wages by not doing any work purely with the help of litigation.

4. In the rejoinder portion about para 2 it has been said that the above para 2 of the W.S. of the workman is incorrect and denied. About other paras it has been stated that the same are not fully correct. However, facts have been disclosed to show that the concerned workman was dismissed for the misconduct after holding fair and proper enquiry giving sufficient chances to him to defend him. It has also been stated that he is not entitled for any relief.

5. A rejoinder by the concerned workman to the W.S.-cum-rejoinder of the management has been filed. In this rejoinder para 2,3,4,5,6,7,8 it has been stated that the same are not correct and denied. The statement made in para 10 is ill motivated. Giving further details it has been prayed that the Award in favour of the concerned workman directing the management to reinstate him with full back wages and consequential benefits may be passed.

6. POINTS TO BE DECIDED

"Whether the action of the management of Digwadih Colliery of M/s. TISCO in dismissing Sh. Bharat Singh, Sr. Trammer from service is justified? If not, to what relief is the concerned workman entitled?"

FINDING WITH REASONS

7. Before proceeding further it may be mentioned here that there has been an order on preliminary point on 7-6-2006 after considering the enquiry report, evidence and other materials on record it has been held that the Enquiry Officer conducted the domestic enquiry fairly, properly

and in accordance with the principle of natural justice. Thereafter the case was fixed for hearing on merit, and accordingly the same was heard on merit.

8. Ld. Lawyer for the management has submitted that once the enquiry proceeding was found fair, proper this Court has jurisdiction only to consider the quantum of punishment on the basis of materials available on record in accordance with the provision of Section 11A of the I. D. Act, 1947. He has further referred a decision reported in 2005 Lab I.C. 1986 to show that this Court has jurisdiction only to consider the quantum of punishment imposed upon the concerned workman. He has further submitted that in the instant case the punishment awarded to the concerned workman for the misconduct is not harsh and shocking rather considering his previous conduct also the punishment awarded is just and proper. He has specifically submitted that once the concerned workman was transferred he ought to have joined to his new place of posting and thereafter should have submitted any representation, if any, but instead of doing so in spite of order/direction of the management he did not join to his new assignment and remained absent for long time without any reason or information or permission or justification. In this situation the punishment of dismissal awarded to the concerned workman is just and proper and in accordance with the provision of Certified Standing Order of Company.

9. On the other hand Ld. Lawyer for the concerned workman has vehemently submitted that the concerned workman has been victimised as he had approached this Tribunal on earlier occasion and an Award was passed in his favour with an order of reinstatement with 50% back wages. This has annoyed the management without any reason he was transferred to another colliery where there was no requirement. In fact his transfer was made only to victimise him due to the Award passed in his favour. Not only this the concerned workman represented before the management repeatedly and requested to allow him to his new assignment but he was not allowed. Not only this a biased enquiry was held against the concerned workman. He was not given any opportunity to defend and to lead evidence in his defence. A perfunctory enquiry was conducted on the flimsy ground and ultimately he was dismissed with a view to victimise him. It has been submitted that in these facts and circumstances of the case order of dismissal of the concerned workman may be set aside with full back wages and other consequential benefits.

10. In this case it appears that during the course of domestic enquiry the concerned workman did not participate. From enquiry report EXT.M-14 it also appears that in spite of having knowledge of the enquiry proceeding the concerned workman did not participate. It appears that only on one occasion during the course of enquiry on

10-9-94 the concerned workman was present but he did not put his signature on the enquiry papers and refused to participate in the proceeding.

11. From order dt. 7-6-2006 it appears that there has been order on preliminary point regarding fairness and propriety of the domestic enquiry. On consideration of the materials it has been found that the domestic enquiry was fair, proper and in accordance with the principle of natural justice and thereafter the case was fixed for hearing argument on merit.

12. In accordance with Section 11A of the I. D. Act, 1947 in the present facts and circumstances of the case the only question remains for consideration regarding quantum of punishment as the enquiry has been held fair and proper. In this connection on behalf of the management a decision reported in 2005 Lab IC 986 has been filed. From perusal of this decision it appears that once domestic enquiry conducted against the concerned workman was found to be legal and valid by Labour Court it cannot subsequently consider whether finding of the domestic enquiry were correct or sustainable or not. In such circumstances it can exercise its jurisdiction under Section 11A of the I.D. Act, 1947 only to consider whether on charges proved the punishment awarded was not reasonable or was too harsh.

13. Much argument has been advanced on behalf of the concerned workman that the order of dismissal has been passed only to victimise the concerned workman and in this sequence he was transferred to another colliery without any basis. This has happened because earlier an Award was passed in his favour.

14. From perusal of the record as well as from submission made on behalf of the parties it appears that in the year 1986 an Award was passed in favour of the concerned workman directing the management to reinstate the concerned workman with 50 per cent back wages as he was dismissed from service. It appears that honouring the Award of this Tribunal the management has reinstated the concerned workman along with other benefits. It will be relevant to mention it appears that no any Writ application or Review application was filed by the management and the concerned workman was reinstated. Since the concerned workman did not participate during the course of enquiry there is no material on his behalf to show that on account of the aforesaid Award the management started to victimise him.

15. The question of victimisation if any has to be taken into consideration on the basis of the materials available on the record. From perusal of the record as well as from Ext.M-5/16 it appears that the concerned workman was transferred to Digwadih colliery on the ground that the concerned workman was rendered surplus as Time rated Trammer at 6/7 Pits Colliery. He was directed to join Digwadih Colliery w.e.f. 1-6-92. However it appears that the concerned workman did not join to his new assignment

rather he absented without giving any information to the management or taking any permission. Accordingly he was asked to explain the matter and he submitted his explanation. From his explanation Ext.M-2 it appears that he has said that the transfer order was illegal, without jurisdiction and in this connection petitions on his behalf dt. 5-5-92, 31-1-93 were filed. It also appears that another representation was filed on 8-6-92 stating that the matter is pending regarding illegal transfer. It further appears that on 26-7-93 a petition was filed regarding pending matter and he had personally met and made oral request for solution of the matter. This explanation has been filed which appears to have been filed and after the enquiry had started and chargesheet was submitted to him, Vide Ext.M-5/23 it appears that the concerned workman had not replied within the stipulated time at the time of initiation of departmental proceeding. The representation was received by the management on 7-2-94. From perusal of this Ext. which is dated 28-5-94 wherein it has been stated that the allegation (against the management) is absolutely incorrect and he (the concerned workman) has given lame excuse to explain the gross misconduct committed by him. It further appears that this reply was forwarded to the Enquiry Officer. As mentioned earlier the concerned workman did not participate in the enquiry proceeding. He has not brought any materials in support of the fact how his transfer was illegal and without jurisdiction as stated in his explanation. It will be further relevant to mention that vide aforesaid Ext. M-5/23 it has also been mentioned that the concerned workman was directed to report for duty to the Dy. Divisional Manager, Digwadih Colliery. It is also mentioned that under the circumstances the question of not allowing the duty not arise. The concerned workman was once again advised to report for duty to the Dy. Divisional Manager without any further delay. This letter is dated 28-5-94 and it appears to have been issued after the enquiry proceeding had already started. The concerned workman has submitted his explanation making allegation against the management. It will be relevant to mention that on the basis of materials available on record it appears the concerned workman did not report for duty in spite of issuance of such further direction.

16. Ld. Lawyer for the management has vehemently submitted that the concerned workman was surplus at 6/7 Pits Colliery and accordingly he was transferred to Digwadih Colliery as per requirement but he deliberately did not join the duty in spite of repeated direction from the management. He has also submitted that the transfer is the prerogative of the authorities concerned. He has submitted this by a decision reported in 2005 Supreme Court case L & S 55.

17. From perusal of the aforesaid judgement it appears that the transfer is the prerogative of the authorities concerned. It appears that the facts and circumstances of this case is different than the circumstances mentioned above. However, it appears that the management has every

right to transfer its every employee according to requirement. There is no material on record to suggest that the concerned workman was transferred to Digwadih Colliery not as per requirement rather to victimise him on the ground that earlier an Award was passed in his favour.

18. It will be relevant to mention that earlier an Award in favour of the concerned workman has been passed in the year 1986 and it appears the same was implemented by the management without filling any Writ Application/ Review petition. Thereafter in the year 1992 the concerned workman appears to have been transferred as per requirement in Digwadih Colliery. It is not the case here that the concerned workman was immediately or after sometime of the Award in favour of the concerned workman was transferred with a view to victimise him. The period of transfer does not indicate in any way that the transfer has been made only to victimise to the concerned workman. In this context Ext.M.5/17 shows that six other employees of 6/7 Pits Colliery were also transferred to Digwadih Colliery along with the concerned workman and it is not the case that only this concerned workman was transferred.

19. It is not a case of habitual absenteeism. But it appears to be a case of dis-obedience of superior officer and absenteeism for long period after transfer of the concerned workman. In this context it will be relevant to mention the relevant portion of the Certified Standing Order of the Company which reads as follows:—

*** Clause 19.1**

Any employee may be suspended, fined or dismissed without notice or any compensation in lieu of notice if he is found to be guilty of misconduct, provided that suspension without pay, whether as a punishment or pending an enquiry shall not exceed ten days. The following shall denote misconduct.

1. Wilful insubordination or disobedience, whether alone or in combination with another or others, of any lawful or reasonable order of a superior.

Clause 19.16

Continuous absence without permission and without satisfactory cause for more than 10 days."

20. As mentioned earlier it appears that the concerned workman did not join to his duty after transfer and subsequently after initiation of departmental proceeding he has tried to raise that the transfer is illegal and without any jurisdiction but there is nothing to show that how the transfer is illegal and without jurisdiction. It appears that such a statement in his explanation/ representation has been brought only to make out a case for not joining new place of posting. It is not the matter to be decided here. Even after such representation/ explanation he has advised to report for duty but once

again he did not join the duty. There is nothing on record to show that the management did not allow him to join the duty rather the materials and circumstances suggest that management has given direction to join to his new place of posting.

21. From the enquiry report Ext.M-4 as well as from other exhibits it appears that the concerned workman did not participate in the proceeding deliberately and having full knowledge about proceeding of the case even he did not try to bring the material on record in his favour. The enquiry report and the materials speak that the enquiry officer had taken all possible pain to procure attendance and participate of the concerned workman but the concerned workman did not like to participate in the proceeding. This also shows that the conduct of the concerned workman.

22. Ld. Lawyer for the management has submitted that if the concerned workman had any grievance he could have raised it before the management after joining to his new assignment but he absented for a long period without any information or prior permission from the management. Even he did not join to his new assignment in spite of the fact that he was advised to join after initiation of the departmental proceeding when he submitted his explanation. There appears force in the submission of the Ld. Lawyer for the management that the concerned workman could have submitted representation or approached the management for redressal of the grievances after joining to his new assignment but he failed to do so without any basis.

23. In the aforesaid facts and circumstances of the case considering the materials available on record and also considering the submission of Ld. Lawyers for both the parties it appears that the concerned workman not only absented continuously without permission or without satisfactory cause from the date of his transfer to his new assignment i.e. from 1-6-92 he also disobeyed the order of the management regarding joining to his new assignment even after repeated direction without any basis. The conduct of the concerned workman in not participating in the enquiry proceeding in spite of giving all opportunities for the same also shows that he did not like to cooperate with the management in the administrative affairs.

24. In the aforesaid facts and circumstances of the case the concerned workman is not entitled for any relief. Accordingly the following Award is rendered:—

"The action of the management of Digwadih Colliery of M/s. TISCO in dismissing Sh. Bharat Singh, Sr. Trammer from service is justified. Consequently, the concerned workman is not entitled to get any relief."

NAGENDRA KUMAR, Presiding Officer

नई दिल्ली, 15 अप्रैल, 2008

का.आ. 1049.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. हरियाणा मिनेरल लिमिटेड, फरीदाबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ संख्या आई डी सं.-16/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-29012/19/1993-आई आर(एम.)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. I.D. No. 16/1994) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Haryana Minerals Ltd., Faridabad and their workmen, which was received by the Central Government on 16-04-2008.

[No. L-29012/19/1993-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R. N. RAI I.D.No.16/1994
IN THE MATTER OF:

Sh. Rohtas,
S/o. Sh. Sohan Lal,
Vill & Post: Kabla,
Tehsil: Narnoul,
Distt: Mahendargarh.

... Claimant

VERSUS

1. Haryana Minerals Limited,
Faridabad (Haryana).
2. The Chief Mining Engineer,
440, Sector: 21 - A,
Faridabad (Haryana).

... Respondents

AWARD

The Ministry of Labour by its letter No.L-29012/19/93 IR (Misc.) CENTRAL GOVERNMENT DT.03-02-1994 has referred the following point for adjudication:

The point runs as hereunder:-

“Whether the action of the management of M/s. Haryana Minerals Limited, Faridabad in relation to terminating the services of Sh. Rohtas, Ex. Bill Clerk w.e.f. 26-02-1992 is just, fair and legal? If not to what relief he is entitled and from what date.”

The workman applicant has filed claim statement. In the claim statement it has been stated that the petitioner was appointed as Security Guard in the Haryana Minerals Ltd. at Faridabad and had worked against that assignment from 10-8-1989 to 14-12-1989.

That the work and conduct of the petitioner as Security Guard was appreciated by the Respondents and keeping in view the ability and performance of his job, the petitioner was appointed Bills Clerk by the Respondents on 15-12-1989 and he worked as Bills clerk upto 25-2-1992 at various places of posting at the instance of the respondents.

That during this period the work and conduct of the petitioner was satisfactory. The petitioner during these periods was not given any adverse remarks to his discredit and his service record is without any blemish, which would speak for itself. The respondents also did not find any wrong petitioner.

That according to the provisions of Industrial Disputes Act, and employee attains a status of a regular employee after completing 240 days and the services of the Petitioner are also governed by the aforesaid Act. The petitioner has completed 240 days service and has thus achieved the requisite condition for being regularized as an employee of the Corporation - Respondents.

That the Petitioner had not absented himself from duties and on the date of inspection of the Flying Squad, the Petitioner was very well on duty and the Flying Squad wrongly reported the matter to the department against the petitioner that the petitioner was absent and some unauthorized person was working in his place.

That the petitioner was issued a letter dated 6-1-1992 by the Respondent No. 2. The contents of the letter states that, during the inspection it was observed that HML's tokens were issued by the staff of private contractors whereas the same should have been issued by Shri Shiv Ram, Security Guard or the bill clerk, Shri Rohtas thus both have eschewed from duties and they have committed a gross mistake being absent from the important Check Post where cash transactions are made. Shri Rohtas Bill Clerk and Shri Shiv Ram, Security Guard are required to explain their conduct, within 48 hours of the receipt of the letter as to why severe disciplinary action should not be taken against them, failing which management may take action as deemed fit. Thereafter issuing this memo the petitioner was placed under suspension with immediate effect.

The petitioner submitted his reply before the Respondents on 9th January, 1992. The petitioner has stated that he was on duty on that date when Flying Squad made inspection. He has further stated that when Flying Squad made inspection. He has further stated that when the Flying Squad was inspecting the petitioner was preparing bill of vehicle No. HR 29-3111. He has further stated in his reply that according to instructions of Project Manager they were instructed that whenever a truck loaded with stones reaches the gate they submit HML's token and private contractors token and make entry in the register as out. Thereafter they submit the HML's token to bill clerk and

cash token, which the bill clerk makes bill. This is the reason when Flying Squad came HML's token was in the hand of Private contractor and the Flying Squad asked me who is he. I had told them that he is a private contractor and when a loaded truck reaches then private contractor receives HML's token and submit cash token to them, thereafter the bill is made, we were working on the instructions of Project Manager. Therefore, the allegations made against me is totally wrong.

That the Petitioner was not supplied with the copy of the report of the Flying Squad by the Enquiry Officer. Further, the report of the Enquiry Officer was never supplied to the petitioner before the termination and lastly no personal hearing was given to the petitioner before termination order against the petitioner was passed.

It is submitted that the above three conditions are mandatory. Further the petitioner was prevented from submitting his proper defence before the Enquiry Officer without the copy of the report of Flying Squad. Therefore, the termination order dated 25-2-1992 issued by the Respondents against the petitioner is wrong, illegal, arbitrary, mala fide and against the principles of natural justice.

The Management has filed written statement. In the written statement it has been stated that the claimant/petitioner was working as daily wager employed as semi-skilled mining workman w.e.f. 18-8-1989 and was paid daily wages at the rate prescribed by the Central Government for this category from time to time. He was engaged as skilled category workman w.e.f. 15-12-1989. At the relevant time he was assigned the job of billing clerk at Check post No. 3 at the mining establishment of Lakkarpur-II of Haryana Minerals Ltd. He was required to issue bills and tokens to the incoming and outgoing trucks carrying the road metal and masonry stones from the mines.

That on 1-1-1992 the Flying Squad constituted by the Managing Director HML consisting of Geologist and Corporate Manager of the answering management, had carried out surprise checking at the work site of the petitioner at stone mines Lakkarpur - II. During the inspection the Flying Squad had observed that the petitioner, Shri Rohtas was absent from the important check post i.e. his duty place and the tokens to be issued by him were being issued by the staff of private contractors whereas the same should have been issued by the S/Guard or the petitioner Sh. Rohtas in absence of the S/Guard. Thus the petitioner was found negligent in discharge of his duties because the records of the answering respondent and tokens were misused by the persons of private contractors causing financial loss to the respondent, thus the petitioner was found negligent in performance of his duties.

A show-cause notice/including chargesheet was issued to the claimant/petitioner vide Ref. No. HM-CME/92/4105 dated 6-1-1992. Since the charges levelled were serious in nature the services of claimant/petitioner were suspended with immediate effect. After holding a proper legal enquiry the services of the claimant/petitioner were terminated vide order of termination dated 25-2-1992.

That this Hon'ble Tribunal Court at New Delhi has no jurisdiction as the reference has not been sent by the appropriate Government.

That the claimant/workman is doing service after termination from the respondent establishment and is gainfully employed.

That the action of the management/respondent terminating the workman from its establishment due to serious charges is very much in accordance with law and principles of natural justice, the claimant/workman is estopped to come before the Hon'ble Tribunal by his own acts, conduct and omissions. That the claim is bad for non-joinder and mis-joinder of necessary parties.

That the claimant was engaged as semi-skilled workman on the rate of wages prescribed for mining workman by the Central Government from time to time w.e.f. 18-8-1989. He was engaged as skilled workman w.e.f. 15-12-1989 in the mining establishment. Rest of the contents of these paras are wrong and hence denied.

The claimant/workman is trying to mislead the Hon'ble Tribunal. He has not come with clean hands. It is specifically denied that at the time of inspection by the Flying Squad the claimant/workman was not present at his place of duty i.e. Check Post No. 3 of stone mines Lakkarpur-II, Faridabad.

The show cause/charge sheet dated 6-1-1992 mentioned in this para was rightly issued to the claimant/workman as a consequence of his having eschewed from duty in the circumstances stated hereinabove. As the charges were serious so he was placed under suspension and a proper legal enquiry was constituted.

The petitioner was working in collusion with the persons of private contractors who used to extract and buy the mineral from the mines of the answering management on truck basis. The petitioner absented himself from his duty place, where tokens were to be issued. However, the tokens were being issued through the contractors for his gainful consideration and thus has been causing financial loss to the answering respondent.

In view of the misconduct of the petitioner, a proper enquiry has been conducted and the charges were proved against the claimant/workman hence the termination order has been passed in accordance with law. It is further denied that the petitioner has not been given proper opportunity to defend himself before the Enquiry Officer.

The services has been terminated in accordance with law and natural justice adopting prescribed procedure of enquiry and the order dated 15-26-2-1992 terminating the services of the claimant/workman. In view of the gross misconduct is just, legal and in accordance with principle of natural justice.

It is submitted that the Management had filed proper reply dt. 11-5-1992 to the representation of Shri Rohtas petitioner before ALC(C)-cum-Conciliation Officer. If the Conciliation Officer could have applied his mind the matter would have not been referred for adjudication before this Hon'ble Tribunal since the action of the management is just, legal and according to the principle of natural justice.

The report dt. 17-7-1992 by the Authority was not at all required for reference to the appropriate Government and the representation dt. 3-3-1992 could not be considered in view of the submissions made hereinabove. Moreover it should have been filed at the conciliation stage.

The workman applicant has filed rejoinder. In the rejoinder the workman has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been filed.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workman that he was engaged as Security Guard on 10-08-1989 to 14-12-1989. He was again appointed on 15-12-1989 and he worked as Bill Clerk up to 25-02-1992 at various places of posting at the instance of the respondents.

It was further submitted that the management alleged that he absented himself from duty and on the date of inspection of flying squad the petitioner was very well on duty and the flying squad wrongly reported the matter to the department against the petitioner that he was unauthorisedly absent and some other person was working in his place. He was on duty on the date when the flying squad made inspection. It was wrongly reported that at the time of the visit of flying squad the workman was absent.

That the workman was not provided with the report of the flying squad by the Inquiry Officer. The report of the Inquiry Officer was not supplied to him before the termination of his services. No personal hearing was given and he was not permitted to adduce his defence evidence. The termination order dated 25-02-1992 was illegal, arbitrary, malafide and against the principles of natural justice.

It was submitted from the side of the management that during the surprise check this workman was found absent. He was not discharging his duties and the tokens to be issued by him were being issued by the staff of private contractor. He was found negligent in discharge of his duties. Tokens were mis-used by the contractor's workmen and caused financial loss to the respondents. His services were terminated after conducting proper and fair inquiry.

The documents regarding inquiry have not been annexed with the record. It appears that summary inquiry was made. The workman was not given opportunity of personal hearing and he was not given opportunity to cross-examine the witnesses and to adduce evidence in defence. Thus, the inquiry is not fair and proper.

It was further submitted from the side of the management that the Tribunal has no jurisdiction as the respondent are situated in Haryana. The HML is an undertaking of the Central Government and the Central Government is the appropriate government. The Central Government may send any reference to any Tribunal/Labour Court. The reference has been validly sent to this Court and the court has jurisdiction.

It was further submitted from the side of the management that the Hon'ble Apex Court by judgement dated 15-05-1992 ordered that the Mechanical Stone Crusher in the Faridabad, Ballabhgarh etc. operating at various places should stop operating w.e.f. 15-08-1992.

In compliance of the orders of the Hon'ble Apex Court, the units were closed in the end of 1992 and all the workmen were found surplus and they were retrenched. The units in Faridabad, Ballabhgarh etc. were stopped.

It was further submitted that even if inquiry was not found fair and proper there is no question of reinstatement as the units have been closed down in compliance of the directions of the Hon'ble Apex Court. The workman at best would have worked up to the last of 1992. His services were terminated in February, 1992. He could have further continued up to December, 1992, so had he remained in service he would have got 8 - 10 months more wages and compensation for his previous 2 - 3 years services.

From perusal of the records it transpires that the principles of natural justice have not been followed during the inquiry and the inquiry stands vitiated. The unit in which the workman was working was closed down in the end of 1992. He could have at best got wages up to 8 - 10 months till his retrenchment at the end of 1992 and retrenchment compensation for 2½ years. In the circumstances there is no question of reinstatement of the workman even in case the inquiry is invalid. The workman is entitled to compensation of Rs. 35,0000 (Rs. Thirty Five Thousand Only) (8 - 10 month's salary + 15 days wages for every completed year) and costs of the case.

The reference is replied thus:

The action of the management of M/s. Haryana Minerals Limited, Faridabad in relation to terminating the services of Rohtas, Ex. Bill Clerk w.e.f. 26-02-1992 is not absolutely just nor fair nor legal. The workman is entitled to compensation of Rs.35,000 (Rs. Thirty Five Thousand only). The management should pay him this compensation amount within two months from the date of the publication of the award.

The award is given accordingly.

R. N. RAI, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

का.आ. 1050.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उदयपुर मिनरल डेवलपमेंट सिंडीकेट प्रा. लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या सी आई टी-22/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-29012/125/1994-आई आर(एम)]

एन. एस. बोर, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1650.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. CIT No. 22/95) of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Udaipur Mineral Development Syndicate Pvt. Ltd. and their workmen, which was received by the Central Government on 16-04-2008.

(No. L-29012/125/1994-IR(M))

N. S. BORA, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 22/1995

रेफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-29012/125/94-आई.आर.(मिस) दिनांक 19-6-1995 श्री देवी सिंह पुत्र श्री सन्जय सिंह कानायत द्वारा भारतीय खान मजदूर संघ, जिला भीलवाड़ा (राज.)

—प्रार्थी

बनाम

एजेन्ट एवं मुख्य कार्यकारी अभियन्ता (वक्स), उदयपुर मिनरल डेवलपमेंट सिन्डिकेट प्रा.लि., भीलवाड़ा।

—अप्राथी

व्यवस्थापक

पीठासीन अधिकारी: श्री गौतम प्रकाश शर्मा, आर.एच.जे.एस, प्रार्थी की ओर से: कोई उपस्थित नहीं अप्राथी की ओर से: श्री रूपिन काला

दिनांक अवाई: 03-03-2008

अवकाश

1. भारत सरकार के श्रम मंत्रालय की आज्ञा क्रमांक 29012/125/94 दिनांक 19-6-95 से निम्न अनुसूची का विवाद अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है:

"Whether the action of the management of UDMS Pvt. Ltd., Bhilwara in terminating the services of Shri Devi Singh from 1-11-93 is legal and justified? If not, to what relief the concerned worker is entitled to?"

2. इस विवाद के संबंध में पक्षकारान की ओर से स्टेटमेंट ऑफ क्लेम तथा स्टेटमेंट ऑफ क्लेम का जवाब पेश हुआ। स्टेटमेंट ऑफ क्लेम के अनुसार श्रमिक देवी सिंह प्रार्थी यूनियन भारतीय खान मजदूर संघ जिला भीलवाड़ा का सदस्य था। विपक्षी नियोजक द्वारा श्रमिक देवी सिंह की सेवा दिनांक 1-11-93 को अवैधानिक रूप से समाप्त कर दी जिसके संबंध में समझौता अधिकारी के समक्ष विवाद उठाया जहां समझौता नहीं होने पर एवं समझौता अधिकारी द्वारा असफल धार्मा का प्रतिवेदन भारत सरकार को प्रेषित करने पर उपरोक्त अनुसूची का विवाद प्रस्तुत हुआ है। स्टेटमेंट ऑफ क्लेम के चरण सं. 4 के 'अ से र' में प्रार्थी की ओर से आवेदन के आधार बताया गया है जिसके अनुसार श्रमिक देवी सिंह लिपिक के पद पर

10-4-72 से नियुक्त था व वर्ष 1980 से उससे पी.एफ. क्लर्क का कार्य लिया जाता रहा। माह अक्टूबर 1993 में श्री देवी सिंह को पी.एफ. कार्य को अलग्ना सेवारत श्रमिकों का अधिसमय मुमताम रजिस्टर तैयार करने के निर्देश दिये गये जबकि इस कार्य का अनुभव प्रार्थी को नहीं था। इस कार्य के करने से श्रमिक से कुछ गलती हो गई जिस हेतु अप्राथी द्वारा दिनांक 5-10-93 व 6-10-93 को आरोप पत्र दिया गया जिसका स्पष्टीकरण प्रार्थी की ओर से दे दिया गया। श्रमिक दिनांक 1-11-93 को सेवारत देने उपस्थित हुआ लेकिन बिना किसी लिखित आदेश व नोटिस के प्रार्थी को सेवा देने से इन्कार कर दिया। प्रार्थी ने इस संबंध में निवेदन भी किया किन्तु उसे सेवा में नहीं लिया गया। अप्राथी द्वारा प्रार्थी की सेवारत 1-11-93 से समाप्त कर औद्योगिक विवाद अधिनियम की धारा 25-एफ की अवहेलना की है क्योंकि उसे एक माह का नोटिस, नोटिस के एकव में एक माह का वेतन नहीं दिया गया एवं श्रमिक की सेवारत बिना किसी विमर्शपूर्ण जांच की कार्यवाई किये समाप्त की गई है जिससे भी सेवा समाप्ति का आदेश नैसर्गिक न्याय के सिद्धान्तों के विरुद्ध व श्रम कानूनों के विपरीत होने से निष्पत्ती व शून्य है। पुनः परस्परपन का निवेदन किया है।

3. अप्राथी की ओर से स्टेटमेंट ऑफ क्लेम का जवाब पेश हुआ जिसमें बताया कि प्रार्थी का कार्य संतोषप्रद नहीं था एवं उससे लिपिक का ही कार्य लिया जाता रहा था। प्रार्थी स्वयं ही अपनी सेवा मुक्ति प्राप्त कर चुका है अतः प्रार्थी 30-10-93 से ही अपनी सेवा त्याग चुका है अतः उसका यह क्लेम स्वीकार होने योग्य नहीं है। प्रार्थी ने अपना हिसाब प्राप्त करने हेतु कोई प्रार्थना पत्र पेश नहीं किया। इस प्रकार प्रार्थी किसी भी तरह की राहत पाने का अधिकारी नहीं है।

4. पत्रावली की आदेशिकाओं को देखने से प्रार्थी यूनियन को साक्ष्य हेतु कई अवसर दिये गये किन्तु प्रार्थी यूनियन की ओर से कोई साक्ष्य नहीं आई अतः दिनांक 22-9-2000 को प्रार्थी को साक्ष्य बंद की गई और प्रार्थी की ओर से कोई दस्तावेज भी पेश नहीं हुए। अप्राथी ने भी साक्ष्य हेतु अवसर चाहा किन्तु उनकी ओर से भी साक्ष्य पेश नहीं होने से उनकी साक्ष्य बंद की गई प्रकरण बहस अंतिम पर रखा गया।

5. आदेशिका दिनांक 15-7-2002 के अनुसार पत्रावली बहस हेतु 11-10-02 को रखी गई थी किन्तु पत्रावली 11-10-02 को पेश नहीं होकर दिनांक 19-8-04 को प्रस्तुत हुई अतः पक्षकारान को प्रकरण की सुनवाई के नोटिस जारी किये गये। दिनांक 4-11-06 को अप्राथी की ओर से श्री रूपिन काला उपस्थित आये एवं प्रकरण दिनांक 31-1-2007 के लिए कैम्प गुलाबपुर रखा गया। उस रोज प्रार्थी यूनियन के अध्यक्ष श्री सत्यनारायण शर्मा उपस्थित थे। पुनः प्रकरण 2-3-2007 को कैम्प गुलाबपुरा में नियत था लेकिन कैम्प गुलाबपुरा नहीं जाने से प्रकरण आगे की सुनवाई की सूचना प्रार्थी यूनियन को जारी हुई। अन्ततः दिनांक 1-1-2008 को पत्रावली कैम्प गुलाबपुरा में रखी गई उस रोज भी प्रार्थी की तामील नहीं होने से कोई उपस्थित नहीं आया अतः प्रकरण दिनांक 29-1-2008 को सुनवाई हेतु मुख्यालय पर रखा गया। दिनांक 29-1-2008 की सूचना प्रार्थी यूनियन को दिनांक 23-1-2008 को प्राप्त हो चुकी थी लेकिन दिनांक 29-1-2008 को प्रार्थी उपस्थित नहीं आये। दिनांक 29-1-2008 की सूचना तो दिनांक 23-1-08 को प्रार्थी को प्राप्त हो गई किन्तु उक्त की प्रति अधिकरण में 29-1-08 को प्राप्त नहीं हुई अतः प्रकरण

23-2-2008 को रखा गया एवं प्रार्थी को पुनः सुनवाई की सूचना जारी करने के आदेश दिये गये किन्तु नोटिस की प्रति प्राप्त होने पर पाया गया है कि 29-1-2008 की सूचना प्रार्थी को 23-1-2008 को प्राप्त हो चुकी थी अतः दिनांक 29-1-2008 को प्रार्थी के नहीं आने का कोई कारण नहीं दर्शाया गया न ही प्रार्थी उपस्थित आया अतः प्रकरण में प्रार्थी को सूचना होना माना गया।

6. जिस तरह से ऊपर तथ्य वर्णित हुए हैं उसके अनुसार प्रकरण में प्रार्थी यूनियन की साक्ष्य नहीं आई है एवं न ही अप्रार्थी की साक्ष्य आई है। विवाद प्रार्थी यूनियन की ओर से उठाया गया है अतः इस विवाद के संबंध में साक्ष्य प्रार्थी को प्रस्तुत करनी थी एवं विवाद जो भेजा गया है वह बिना साक्ष्य के निर्णित होने योग्य नहीं है। प्रकरण में प्रार्थी अथवा अप्रार्थी दोनों की ओर से कोई दस्तावेज भी पेश नहीं हुए हैं। दोनों पक्षों की साक्ष्य बंद की गई है। इन सब तथ्यों व परिस्थितियों को देखते हुए प्रार्थी को अपना क्लेम सिद्ध करना था जो किसी तरह से सिद्ध होना नहीं पाया गया है। अतः प्रकरण में प्रार्थी कोई राहत पाने का अधिकारी नहीं है और भेजे गये निर्देश का उत्तर निम्न प्रकार से दिया जाता है:

"उदयपुर मिनरल डेवलपमेंट सिन्डीकेट प्रा. लि., भोलवाड़ा को प्रबन्धन द्वारा श्रमिक श्री देवी सिंह की सेवाएं दिनांक 1-11-93 से समाप्त करना उचित एवं वैध है। प्रार्थी कोई राहत पाने का अधिकारी नहीं है।"

7. अवार्ड आज दिनांक 3-3-2008 को खुले न्यायालय में लिखवा जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनायक नियमानुसार भेजा जावे।

गौतम प्रकाश शर्मा, न्यायाधीश

नई दिल्ली, 16 अप्रैल, 2008

क्र.अ. 1051.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उदयपुर मिनरल डेवलपमेंट सिन्डीकेट प्रा. लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या सी आई टी-05/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-29012/65/1995-आई आर(एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CIT 5/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Udaipur Mineral Development Syndicate Pvt. Ltd. and their workmen, which was received by the Central Government on 16-4-2008.

[No. L-29012/65/1995-IR(M)]

N. S. BORA, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 5/1996

रेफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-29012/65/95-आई आर (विविध) दिनांक 30-1-1996 श्री भैरु पुत्र श्री मांगीलाल जाट द्वारा भारतीय खान मजदूर संघ जिला भोलवाड़ा (राज.)

—प्रार्थी

बनाम

एजेन्ट एवं मुख्य कार्यकारी अभियन्ता (वक्स), उदयपुर मिनरल डेवलपमेंट सिन्डीकेट प्रा. लि., भोलवाड़ा।

—अप्रार्थी

उपस्थित

पीठासीन अधिकारी: श्री गौतम प्रकाश शर्मा, आर.एच.जे.एस.

प्रार्थी की ओर से:

कोई उपस्थित नहीं

अप्रार्थी की ओर से:

श्री रुपिन काला

दिनांक अवार्ड: 03-03-2008

अवार्ड

1. भारत सरकार के श्रम मंत्रालय की आज्ञा क्रमांक 29012/125/94 दिनांक 19-6-95 से निम्न अनुसूची का विवाद अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है:

"क्या प्रबंधक, उदयपुर मिनरल डेवलपमेंट सिन्डीकेट प्रा. लि., भोलवाड़ा के द्वारा उनके कर्मकार श्री भैरु पुत्र श्री मांगीलाल जाट को दिनांक 1-4-92 से रुपये 665 की वेतन श्रृंखला नहीं दिया जाना उचित एवं वैध है? यदि नहीं तो श्रमिक किस राहत का अधिकारी है?"

2. दिनांक 25-5-94 से दिनांक 23-1-2007 तक प्रकरण प्रार्थी यूनियन की तामील में चलता रहा। अप्रार्थी नियोजक की ओर से श्री पापड़ीवाल द्वारा उपस्थिति दिये जाने का आलेख आदेशिकाओं में है। प्रकरण को दिनांक 31-1-2007 को कैम्प गुलाबपुरा में रखा गया, उस रोज यूनियन के अध्यक्ष श्री सत्यनारायण शर्मा उपस्थित आये एवं क्लेम पेश करने हेतु समर्थ चाहा, प्रकरण 2-3-2007 को कैम्प गुलाबपुरा में रखा गया। दिनांक 2-3-2007 को पीठासीन अधिकारी के अवकाश पर होने से कैम्प गुलाबपुरा जाना नहीं हुआ अतः 30-3-07, 9-4-07, 14-5-07 को प्रकरण कैम्प गुलाबपुरा नियत किया गया एवं इस संबंध में प्रार्थी को सूचना जारी की गई किन्तु प्रार्थी ससूचित नहीं होने से कैम्प गुलाबपुरा जाना नहीं हुआ। दिनांक 22-5-07 को प्रकरण कैम्प गुलाबपुरा रखा गया लेकिन उस रोज भी प्रार्थी के उपस्थित नहीं होने से कोई कार्यवाही नहीं हो सकी। फिर प्रार्थी को सुनवाई के नोटिस जारी हुए। दिनांक 29-1-2008 को प्रकरण मुख्यालय पर ही सुनवाई हेतु रखा गया एवं 29-1-08 की सूचना प्रार्थी यूनियन के अध्यक्ष को 23-1-2008 को हो चुकी थी लेकिन 29-1-2008 को बावजूद सूचना के प्रार्थी यूनियन की ओर से कोई उपस्थित नहीं आया। प्रकरण 23-2-2008 को रखा गया, चूंकि नोटिस की दूसरी प्रति 29-1-2008 तक प्राप्त नहीं हुई थी,

अतः अप्रकरण में प्रार्थी यूनियन को सूचना जारी करने के आदेश दिये गये। 23-2-2008 को पीठासीन अधिकारी अवकाश पर थे। दिनांक 2-2-2008 की कार्यालय रिपोर्ट के अनुसार 29-1-2008 की सूचना प्रार्थी को 23-1-2008 को प्राप्त हो चुकी थी अतः प्रार्थी को सूचित होना माना गया एवं 1-3-2008 को प्रकरण नियत किया गया। 1-3-2008 को भी प्रार्थी की ओर से कोई उपस्थित नहीं आया अतः क्लेम का हक बंद किया गया। अप्रार्थी की ओर से श्री रूपिन काला उपस्थित थे।

3. प्रकरण पर गौर किया गया। प्रकरण वर्ष 1996 से लंबित है। दस वर्ष तक तामील में ही चलता रहा जबकि इसी यूनियन का ही एक और मामला सी.आई. टी. प्रकरण सं. 22/95 भी लंबित था जिसमें प्रार्थी यूनियन की ओर से क्लेम पेश हुआ किन्तु इसमें उपस्थिति नहीं दी गई। इसके उपरान्त भी प्रार्थी को 29-1-2008 की सूचना दिनांक 23-1-2008 को प्राप्त हो चुकी थी लेकिन 29-1-2008 को प्रार्थी यूनियन की ओर से कोई उपस्थित नहीं आया न ही क्लेम पेश हुआ। प्रार्थी की ओर से कोई क्लेम पेश नहीं होने से अप्रार्थी की ओर से जवाब पेश किये जाने की आवश्यकता नहीं थी।

4. अनुसूची का विवाद जो भेजा गया उसको सिद्ध करने का भार प्रार्थी यूनियन पर था किन्तु प्रार्थी यूनियन की ओर से न तो कोई क्लेम पेश हुआ न ही कोई दस्तावेज और न ही कोई साक्ष्य पेश हुई इन सब के अभाव में प्रार्थी का यह क्लेम स्वीकार होने योग्य नहीं है और प्रकरण में निम्न अवार्ड पारित किया जाता है :

"प्रबंधक, उदयपुर मिनरल डेवलपमेंट लिमिटेड प्रा. लि., भीलवाड़ा के द्वारा उनके अधिकारी श्री पैरु पुत्र श्री मांगीलाल जाट को दिनांक 1-4-92 से रुपये 665/ की वेतन वृद्धि नहीं दिये जाने उचित एवं वैध है ? प्रार्थी कोई राहत पाने का अधिकारी नहीं है?"

7. अवार्ड आज दिनांक 3-3-2008 को खुले न्यायालय में लिखवाया जाकर सुनकर गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

गौतम प्रकाश शर्मा, न्यायाधीश

नई दिल्ली, 16 अप्रैल, 2008

क्र.अ. 1052.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोलकाता टेलीफोन्स के प्रबंधन के संबद्ध नियोचकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 26/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-40012/24/99-आई आर(डी.यू.)]

अजय कुमार, हेल्थ अधिकारी

New Delhi, the 16th April, 2008

S.O. 1052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/99) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the employers in relation to the

management of Kolkata Telephones and their workmen, which was received by the Central Government on 16-4-2008.

[No. L-40012/24/99-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 26 of 1999

Parties : Employers in relation to the management of Kolkata Telephones, Kolkata

And

Their Workman

Present : Mr. Justice C. P. Mishra

—Presiding Officer

Appearance:

On behalf of the : Mr. T. Chowdhury, Advocate Management

On behalf of the : Mr. K. Chatterjee, Advocate Workman

Dated : 27th March, 2008 Industry : Telephones

AWARD

By Order No. L-40012/24/99/IR(DU) dated 21-7-1999 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Chief General Manager, Kolkata Telephones Kolkata in retrenching Sh. Brojo Kishore Behara, Casual Labour is legal and justified? If not, to what relief the workman is entitled?"

2. When the case is called out today none appears for the workman, nor any step is taken on his behalf to proceed with the matter. Learned Advocate for the management, however, is present and has stated that none is appearing on behalf of the workman since long nor any step is taken by him so that the matter can be proceed further and so it is clear that the workman is no longer interested in the matter. He accordingly has prayed that an appropriate order may be passed for matter.

3. On a perusal of the record it appears that the no one is appearing on behalf of the workman since 22-1-2007 in spite of notice, nor any step is also taken on his behalf so that the matter can proceed further. It is accordingly clear that the workman is no longer interested in the present matter under reference. In such view of the matter, this Tribunal has no other alternative but to dispose of the present reference by a "No Dispute" Award.

4. A "No Dispute" Award is accordingly passed and the present reference is disposed of.

C. P. MISHRA, Presiding Officer

Dated, Kolkata,

the 27th March, 2008

नई दिल्ली, 16 अप्रैल, 2008

क्र.आ. 1053.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इक्व्यूआईन ब्रीडिंग स्टुड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 11, चण्डीगढ़ के पंचाट (संदर्भ संख्या 855/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/222/90-आई आर (डी.यू.)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 855/2005 of the Cent. Govt. Indus. Tribunal-cum Labour Court No-II, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Equine Breeding Stud and their workman, received by the Central Government on 18-04-2008.

[No. L-42012/222/90-IR (DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, SECTOR 18A CHANDIGARH

PRESIDING OFFICER: SHRI KULDIP SINGH

CASE I.D. NO: 855/2K5

Registered on: 9-9-2005

Date of Decision: 4-4-2008

Manjeet Singh S/o Inder Singh
r/o Vill, Piran Wali, P.O. Nyoli Kalan,
Distt, Hissar.

—PETITIONER

Versus

The Commandant, Equine Breeding Stud, Hissar.

—RESPONDENT

APPEARANCE

For the Workman Mr. Raj Kaushik, Advocate

For the Management Mr. K.K. Thakur, Advocate

AWARD

Workman is not present. Management appears through counsel. Mr. Raj Kaushik, Advocate, who had been appearing for the workman till now states that as per his information the workman has died and his legal representative have not approached him, despite his best efforts, to get them substituted for the deceased workman. The record of the file also shows that the workman appeared in the case in person only on 21st of Dec, 2006 and in this between he did not appear in person and his counsel

represented him. Now when the counsel, engaged by him, has reported his demise, he loses the authority to represent him. The Legal representatives of the deceased have not approached the Tribunal to get themselves substituted for him. Who knows whether the workman has left behind any LR or not. In this situation the reference cannot be left like that and has to be answered.

Government of India, Ministry Labour, vide their Order No. L-42012/222/90-IR (DU) dated 3/30th of Dec., 1996 referred the following dispute for the adjudication of the Industrial Tribunal, Chandigarh which was transferred to this Tribunal and was registered on 9-9-2005:

"Whether the activities of the Equine Breeding Stud, Hissar, constitute to be that of an industry under the ID Act and if so whether the action of the Management of Equine Breeding Stud, Hissar in terminating the services of Shri Manjeet Singh S/o Shri Inder Singh, daily rated worker is just, fair and legal and whether the action of the Management of Equine Breeding Stud, Hissar in denying equal wages for equal work to the workman is just and fair? If not, to what relief the workman concerned is entitled to?"

On getting the notice the parties appeared through their representative and counsels and filed their pleadings in the shape of statement of claim, the written statement, rejoinder and supported the same with the affidavits of the persons they wished to examine as their witnesses in the case. However, the record of the file shows that the parties have not produced all their evidence. The workman was leading the evidence and now he is stated to have died. He got his statement recorded, but he wanted to produce more evidence. The reference has to be answered on the basis of evidence available on record.

The claim of the workman is that the Management farm is an industry as defined by the Industrial Dispute Act, 1947 since the same is being run in a systematic manner for the production of higher quality of horses for the Army. The workman was engaged as chowkidar by a verbal order in the year 1985 and he continuously worked for them till February, 1990 and each year he performed duty for more than 240 days, but he was not paid the Minimum wages as were paid to the workers in other farms at Hissar. The workman along with co-workers raised a combined claim for Minimum wages to the Management in March, 1990. The Management instead of giving Minimum wages disengaged all the workmen who had raised the claim by a verbal order dated 8th of March, 1990, in violation of law and rules. The Management later on granted minimum wages to the workers when they put up their claim for that before the authorities. The Management further violated the law and rules by not preparing the lists of workers before disengaging them, by following the principle of first come last go. According to the workman, his termination

from services is bad in law, therefore, the same is required to be quashed and the workman should be treated in service and be also given regularization in service and grade under rules.

The management has opposed the claim of the workman by raising a number of preliminary objections and also by denying the claim of the workman on merits. It is claimed by them that the Management being performing Sovereign functions is not an industry. It is further claimed by them that the workman was engaged as daily labour as per the requirement of the farm and in accordance with the standing orders. The labour used to be informed a day earlier whether their services would be required on the next day. They denied that the workman had served the Management for 240 days each year. They have further denied that the services of the workman were disengaged due to malice or for the reasons that he had raised the claim of Minimum Wages. As per the practice whosoever was present in the morning was engaged for the day and there was no question of engaging some one else in place of the workman. They further denied the claim of the workman for regularization in service or for giving him regular grade.

In support of his claim the workman appeared as witness and proved his affidavit exhibit WWI and relied upon documents marked as WWI to WWI/10. In cross-examination he admitted that he has lost the Identity card issued to him. He claimed that he was getting rupees 23/- as wages per day and was paid for the days he had worked for the Management and that he was disengaged on the 8th of March, 1990. Barring this statement of the workman, there is no evidence produced by him to show that he had worked for the Management from March, 1985 to 1990 and that he had worked for 240 days each year or at least during 12 months preceding the date of termination of his services. The record produced by the Management though is only Photo copies of the documents and the same not proved since the Management was yet to enter upon their evidence when the workman died, prima facie go against the workman. If we count the days he served twelve months before the date of his termination in March, 1990, he is shown to have served for 166 days as per the record produced by the Management. Against this record the workman has produced nothing and Providence has also not given him the opportunity to lead more evidence. The position has to be taken as it is. On record there is no evidence to show that the Management had violated the provisions of Law while terminating the services of the workman. Since the workman has failed to show that he had served the Management for 240 days in twelve months preceding the date of termination of his services, therefore, he is not entitled to the benefit of section 25-F of the Industrial Dispute Act, 1947. The workman has further failed to prove that he was not given equal wages for equal work. Similarly the workman has failed to produce any evidence that the Management is an industry.

In view of the discussion made above I am of the opinion that the workman has failed to show that the Management had violated the provisions of Industrial Dispute Act, 1947 in terminating his services, in not paying him equal wages for equal work. He is, therefore, entitled to no relief. The reference is answered against him and the award is passed.

Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

का.आ. 1054.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इग्यूआइन ब्रिडिंग स्टुड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक/आधिकरण श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 858/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/2008/90-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 858/2005 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No-2, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Equine Breeding Stud and their workmen, which was received by the Central Government on 16-04-2008.

[No. L-42012/2008/90-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT-II, SECTOR 18A
CHANDIGARH

PRESIDING OFFICER:

SHRI KULDIP SINGH

CASE I.D. NO: 858/2K5

Registered on: 9-9-2005

Date of Decision: 4-4-2008

Balbir Singh S/o Sher Singh C/O The President, Distt. Agriculture Workers Union, Gali No. 5, House No 123, Jawahar Nagar, Hissar.

—Petitioner

Versus

The Commandant, Equine Breeding Stud, Hissar.

Respondent

APPEARANCE

For the Workman Mr. Raj Kaushik, Advocate

For the Management Mr. K.K.Thakur, Advocate

AWARD

Workman is not present. Management appears through counsel. Mr. Raj Kaushik, Advocate, who had been appearing for the workman till now states that as per his information the workman has died and his legal representative have not approached him, despite his best efforts, to get them substituted for the deceased workman. The record of the file also shows that the workman appeared in the case in person only on 21st of Dec, 2006 and in this between he did not appear in person and his counsel represented him. Now when the counsel, engaged by him, has reported his demise, he loses the authority to represent him. The Legal representatives of the deceased have not approached the Tribunal to get themselves substituted for him. Who knows whether the workman has left behind any LR or not. In this situation the reference cannot be left like that and has to be answered.

Government of India, Ministry of Labour, vide their Order No. L 42012/2008/90-IR(DU) dated 3/30th of Dec, 1996 referred the following dispute for the adjudication of the Industrial Tribunal, Chandigarh which was transferred to this Tribunal and was registered on 9-9-2005:

"Whether the activities of the Equine Breeding Stud, Hissar, constitute to be that of an industry under the ID Act and if so whether the action of the Management of Equine Breeding Stud, Hissar in terminating the services of Shri Balbir Singh S/o Shri Sher Singh, daily rated worker is just, fair and legal and whether the action of the Management of Equine Breeding Stud, Hissar in denying equal wages for equal work to the workman is just and fair? If not, to what relief the workman concerned is entitled to?"

On getting the notice the parties appeared through their representative and counsels and filed their pleadings in the shape of statement of claim, the written statement, rejoinder and supported the same with the affidavits of the persons they wished to examine as their witnesses in the case. However, the record of the file shows that the parties have not produced all their evidence. The workman was leading the evidence and now he is stated to have died. He got his statement recorded, but he wanted to produce more evidence. The reference has to be answered on the basis of evidence available on record.

The claim of the workman is that the Management farm is an industry as defined by the Industrial Dispute Act, 1947 since the same is being run in a systematic manner for the production of higher quality of horses for the Army.

The workman was engaged as Beldar by a verbal order on 1st of March, 1987 and he continuously worked

for them till 8th of March, 1990 and each year he performed duty for more than 240 days, but he was not paid the Minimum wages as were paid to the workers in other farms at Hissar. The workman along with co-workers raised a combined claim for Minimum wages to the Management in March, 1990. The Management instead of giving Minimum wages disengaged all the workmen who had raised the claim by a verbal order dated 8th of March, 1990, in violation of law and rules. The Management later on granted minimum wages to the workers when they put up their claim for that before the authorities. The Management further violated the law and rules by not preparing the lists of workers before disengaging them, by following the principle of first come last go. According to the workman, his termination from services is bad in law, therefore, the same is required to be quashed and the workman should be treated in service and be also given regularization in service and grade under rules.

The management has opposed the claim of the workman by raising a number of preliminary objections and also by denying the claim of the workman on merits. It is claimed by them that the Management being performing Sovereign functions is not an industry. It is further claimed by them that the workman was engaged as daily labour as per the requirement of the farm and in accordance with the standing orders. The labour used to be informed a day earlier whether their services would be required on the next day. They denied that the workman had served the Management for 240 days each year. They have further denied that the services of the workman were disengaged due to malice or for the reasons that he had raised the claim of Minimum Wages. As per the practice whosoever was present in the morning was engaged for the day and there was no question of engaging some one else in place of the workman. They further denied the claim of the workman for regularization in service or for giving him regular grade.

In support of his claim the workman appeared as witness and proved his affidavit exhibit WWI and relied upon documents marked as WWI to WWI/10. In cross-examination he admitted that he has lost the Identity Card and the appointment order issued to him. He claimed that he was getting Rupees 23/- as wages per day and was getting work for 25/26 days a month and that he was paid wages for the days he had worked for the Management; and that he was disengaged on 8th of March, 1990. Barring this statement of the workman, there is no evidence produced by him to show that he had worked for the Management from 1st of March, 1987 to 8th of March, 1990; and that he had worked for 240 days each year or at least during 12 months preceding the date of termination of his services. The record, produced by the Management though is only Photocopies of the documents proves that the workman had put in 264 days service when the Management had terminated. They have nowhere claimed that the Management had followed the provisions of

Section 25-F of the Industrial Dispute Act, 1947, hereinafter to be referred to as "Act" before the termination of services of the workman. The Management is bound by their pleadings and the documents. They cannot go back from the stand taken and evidence produced by them. What is left to be exercised was the right of cross examination of witness of the Management by the workman who is now dead. The position has to be taken as it is. In view of the law laid down by the Hon'ble Supreme Court of India in the case of Bangalore Water Supply and Sewerage Board versus A. Rajappa reported as 1978 Lab.L.C 778 followed by numerous Judgement of the Apex Court such as Des Raj versus State of Punjab reported as (1988) 2 LLJ 149, General Manager, Telecom versus Srinivasan Rao, civil Appeal No 7845 of 1997 decided on Nov. 18, 1997, there remains no doubt to hold that the Management is an industry since it was engaged in systematic activity, organized by co-operation between the employer and the employee for production of high quality of horses.

In view of the discussion made above I am of the opinion that the termination of services of the workman by the Management was in violation of Section 25-F of the Act, therefore, the termination was bad in law and is hereby quashed. The question now comes as to what relief the workman is entitled to. As stated earlier, the workman is dead. From the evidence available on record it is clear that his engagement was not under due procedure of law, therefore, the question of his reinstatement does not arise in view of the dictum of Hon'ble Supreme Court of India in the case of Secretary, State of Karnataka versus Uma Devi and others reported as (2006) 4 SCC 1. He is however, entitled to compensation which in the circumstances of the case I assess at rupees fifty thousands. The Management is directed to pay this amount to the LR of the deceased workman within three months from the date this award becomes enforceable, failing which the LR shall also be entitled to interest on the said amount @ 9% P.A. from the said date. The reference is answered in these terms.

Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

क्र.आ. 1055.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इक्विनाईन ब्रिडिंग स्टुड के प्रबंधक के संबंध निरीक्षकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 861/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/244/90-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 861/2005) of the Cent. Govt. Indus. Tribunal-cum Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Equine Breeding Stud and their workmen, which was received by the Central Government on 16-04-2008.

[No. L-42012/244/90-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESIDING OFFICER:

SHRI KULDIP SINGH

CASE I.D. NO : 861/2K5

Registered on: 9-9-2005

Date of Decision: 4-4-2008

Dalip Singh S/o Sunder Singh C/o The President, District Agriculture Workers Union, Gali No. 5, House No. 123, Jawahar Nagar, Hissar.

—Petitioner

Versus

The Commandant, Equine Breeding Stud, Hissar.

Respondent

APPEARANCE

For the Workman : Mr. Raj Kaushik, Advocate

For the Management : Mr. K.K. Thakur, Advocate

AWARD

Workman is not present. Management appears through counsel. Mr. Raj Kaushik, Advocate, who had been appearing for the workman till now states that as per his information the workman has died and his legal representative have not approached him, despite his best efforts, to get them substituted for the deceased workman. The record of the file also shows that the workman appeared in the case in person only on 21st of Dec., 2006 and in this between he did not appear in person and his counsel represented him. Now when the counsel, engaged by him, has reported his demise, he loses the authority to represent him. The legal representatives of the deceased have not approached the Tribunal to get themselves substituted for him. Who knows whether the workman has left behind any LR or not. In this situation the reference cannot be left like that and has to be answered.

Government of India, Ministry of Labour, vide their Order No. -L 4201/244/90-IR(DU) dated 3/30th of Dec, 1996

referred the following dispute for the adjudication of the Industrial Tribunal, Chandigarh which was transferred to this Tribunal and was registered on 9-9-2005:

"Whether the activities of the Equine Breeding Stud, Hissar, constitute to be that of an industry under the ID Act and if so whether the action of the Management of Equine Breeding Stud, Hissar in terminating the services of Shri Dalip Singh s/o Shri Surinder Singh, daily rated worker is just, fair and legal and whether the action of the Management of Equine Breeding Stud, Hissar in denying equal wages for equal work to the workman is just and fair? If not, to what relief the workman concerned is entitled to?"

On getting the notice the parties appeared through their representative and counsels and filed their pleadings in the shape of statement of claim, the written statement, rejoinder and supported the same with the affidavits of the persons they wished to examine as their witnesses in the case. However, the record of the file shows that the parties have not produced all their evidence. The workman was leading the evidence and now he is stated to have died. He got his statement recorded, but he wanted to produce more evidence. The reference has to be answered on the basis of evidence available on record.

The claim of the workman is that the Management farm is an industry as defined by the Industrial Disputes Act, 1947 since the same is being run in a systematic manner for the production of higher quality of horses for the Army. The workman was engaged as chowkidar on 3rd of March, 1985 and he continuously worked for them till 8th of March, 1990 and each year he performed duty for more than 240 days, but he was not paid the Minimum wages as were paid to the workers in other farms at Hissar. The workman along with co-workers raised a combined claim for Minimum wages to the Management in March, 1990. The Management instead of giving Minimum wages disengaged all the workmen who had raised the claim by a verbal order dated 8th of March, 1990, in violation of law and rules. The Management later on granted minimum wages to the workers when they put up their claim for that before the authorities. The Management further violated the law and rules by not preparing the lists of workers before disengaging them, by following the principle of first come last go. According to the workman, his termination from services is bad in law, therefore, the same is required to be quashed and the workman be treated in service and be also given regularization in service and grade under rules.

The management has opposed the claim of the workman by raising a number of preliminary objections and also by denying the claim of the workman on merits. It is claimed by them that the Management being performing Sovereign functions is not an industry. It is further claimed by them that the workman was engaged as daily labour as per the requirement of the farm and in accordance with the

standing orders. The labour used to be informed a day earlier whether their services would be required on the next day. They denied that the workman had served the Management for 240 days each year. They have further denied that the services of the workman were disengaged due to malice or for the reasons that he had raised the claim of Minimum Wages. As per the practice whosoever was present in the morning was engaged for the day and there was no question of engaging someone else in place of the workman. They further denied the claim of the workman for regularization in service or for giving him regular grade.

In support of his claim the workman appeared as witness and proved his affidavit exhibit WWI. In cross-examination he admitted that he has lost the Identity card issued to him. He claimed that he was getting rupees 23/- as wages per day and was getting work for 20 to 24 days a month. Barring this statement of the workman, there is no evidence produced by him to show that he had worked for Management from March, 1985 to 1990 and that he had worked for 240 days each year or at least during 12 months preceding the date of termination of his services. The record produced by the Management though is only Photo copies of the documents and the same not proved since the Management was yet to enter upon their evidence when the workman died, prima facie go against the workman. If we count the days he served twelve months before the date of his termination in March, 1990, he is shown to have served for 180 days as per the record produced by the Management. Against this record the workman has produced nothing and evidence has also not given him the opportunity to lead more evidence. The position has to be taken as it is. On record there is no evidence to show that the Management had violated the provisions of law while terminating the services of the workman. Since the workman has failed to show that he had served the Management for 240 days in twelve months preceding the date of termination of his services, therefore, he is not entitled to the benefit of Section 25-F of the Industrial Disputes Act, 1947. The workman has further failed to prove that he was not given equal wages for equal work. Similarly the workman has failed to produce any evidence that the Management is an industry.

In view of the discussion made above I am of the opinion that the workman has failed to show that the Management had violated the provisions of Industrial Disputes Act, 1947 in terminating his services, in not paying him equal wages for equal work. He is, therefore, entitled to no relief. The reference is answered against him and the award is passed.

Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

क्र.आ. 1056.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोक्ताओं और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण क्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 658/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-40012/179/2001-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1056.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 658/2005 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 16-04-2008.

[No. L-40012/179/2001-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Presiding Officer : Shri Kuldip Singh

CASE ID. No. 658/2K5

Registered on : 24-8-2005

Date of Decision: 7-4-2008

Milap Chand C/o Shri N.K. Jeet,
Lal Singh Basti Road, Bhatinda.

....Petitioner

Versus

The General Manager, Telecom,
E 10-B, Building, Bhatinda.

....Respondent

APPEARANCE

For the Workman:

Mr. N.K. Jeet, AR

For the Management

Mr. G.C. Babbar, Advocate

AWARD

The workman is not present. He was not present on the last date also. His representative appeared in other cases, but stated that he has no instruction to appear in the case. Today again he has made a similar statement at bar. On the last date it was directed that the workman be summoned again and the notice was sent to him vide this

office No. 945 dated 19th of Feb., 2008. He is not present eventoday. The previous conduct of the workman suggests that he has lost interest in the case as despite getting opportunities he has failed to produce any evidence. Even he himself has not come to make the statement proving his affidavit or certifying the claim made by him. On the request of his representative, the Tribunal allowed the prayer and directed the summoning of his witness on certain conditions. The workman did not fulfill those conditions. Therefore, his witness was not summoned. The position is that his representative has also withdrawn from appearing on his behalf. Government of India, Ministry of Labour vide their order No. L-40012/179/2001-IR (DU) has desired to know "Whether the action of Management of General Manager, Telecom, Bhatinda in terminating the services of Sh. Milap Chand S/o Sh. Parsinda Ram is just and legal? If not to what relief the workman is entitled to and from which date?" The workman, in support of his claim, that he had worked in Telephone Exchange, Gomiana, Bhatinda from 25th of August, 1994 to 1st of March, 1999 on a monthly salary of rupees 2138/- and the Management had terminated his services without notice, charge sheet, enquiry or compensation and that the Management retained his juniors but terminated his services illegally, has produced no evidence not even has examined himself to prove his affidavit nor appeared to answer the queries of the Management. The claim made by the workman has been denied by the Management and they have supported their claim with the affidavit of their witness. The parties have come to the same platform on facts. The looser in this is the workman as there is no evidence on record to show that the workman was engaged by the Management and it is they who had terminated his services illegally. Therefore, the workman is not entitled to any relief. The reference is answered against him and the award is passed.

Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

क्र.आ. 1057.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार सी पी डब्ल्यू डी के प्रबंधन के संबद्ध नियोक्ताओं और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/क्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 127/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/174/93-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref.127/94) of the Central Government Industrial Tribunal-cum Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the employees in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 16-04-2008.

[No. L-42012/174/93-IR (DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. Rai

I.D. No. 127/1994

Complaint No. 06/2004

In the matter of :—

Shri Suresh Kumar,

C/o the General Secretary,

CPWD Mazdoor Union,

Room No. 95, Barracks No. 1/10, Jam Nagar House,
Sahajahan Road, New Delhi - 110011.

Versus

The Chief Engineer, New Delhi Zone-III, CPWD, Sewa
Bhawan, 1st Floor, R.K. Puram, New Delhi.

AWARD

The Ministry of Labour by its letter No. L-42012/174/93
CENTRAL GOVERNMENT DT. 17/29-11-1994 has referred
the following point for adjudication.

The point runs as hereunder:

"Whether the action of the management of
C.P.W.D. in not regularizing the services of the
workman Sh. Suresh Kumar, Sewerman w.e.f.
9.5.1988 is justified? If not, to what relief the
concerned workman is entitled?"

That the workman was initially appointed on 9th May,
1988 as Sewerman on Work Order in R.K. Puram Enquiry
under Sub-division-4 of 'M' Division under the control of
above management. That the workman has not been paid
even minimum wages by the management till date thereby
taking forced labour which is not permissible under law of
the land. That the old pay scale of regular Sewerman in the
CPWD is Rs. 210-250 and new pay scale is Rs. 810-1150
and subsequently the Government as per Arbitration
Award, have revised the pay scale w.e.f. 1st April, 1981 as
Rs. 260—400 and the new pay scale is Rs. 950-1500.

That the management treated the workman as
contractor calling his work as Work Order, but the facts are
otherwise.

That the workman himself was performing the work
of management under the control and supervision of the
Management in the case of Shri Suresh and other
sewermen, all are performing duties under the control and
guidance of Junior Engineer of the concerned Sub-division.
That Shri Suresh Kumar is workman within the definition
of Section 2(s) of the Industrial Disputes Act, 1947.

That the management wantonly and camouflagedly
indulged in unfair labour practice with a view to deny the
proper pay scale to the workman as indicated above. That
in the C.P.W.D., the daily rated workers were called as
Muster Roll Hand Receipt Work order. These type of
names cannot supplant the character of the workman under
Section 2(s) of the Industrial Disputes Act, 1947. That the
Hon'ble Supreme Court vide their order on 17-1-1986 in case
of Surender Singh and others Vs. Engineer-in-Chief, CPWD
have directed the management to pay the petitioners and
all other daily rated employees the same salary and
allowances as are paid to the regular and permanent
employees w.e.f. the date they were respectively employed
and the Hon'ble Supreme Court also hoped that
Government will take appropriate action to regularize the
services of all those workmen who have been continuous
service employed for more than six months. That the
management has regularized the services of many junior
persons to this workman on the time scale but the concerned
workman discriminated after the orders of the Hon'ble
Supreme Court.

That the management is indulging in unfair labour
practice and exploiting the workman belonging to S/C
community. That the demand of the workman Shri Suresh
Kumar to regularize him in the time scale is justified as well
as legal also.

That it is strange to note that in CPWD the daily
rated workers have been getting wages in the time scale in
their respective employment but Shri Suresh Kumar
belonging to SC community was not even paid minimum
wages which action of the Government department is not
appreciable.

That this Hon'ble Tribunal has the jurisdiction as
envisaged in Schedule III, Item 7 i.e. "Classification By
Grades."

That the workman is legally entitled and justified to
be regularized as Sewerman in the proper time scale w.e.f.
9-5-1988.

The management filed written statement stating
therein that there is no such person in the name of Shri
Suresh Kumar working as a Sewerman under the work
charged category of Muster Roll/ Hand receipt category,
in any offices under this zone and, therefore, it is not very
clear as to how there be any dispute regarding alleged
regularization of Shri Suresh Kumar w.e.f. 9-5-88.

In fact, there is one Shri Suresh Kumar, working as a contractor in M.D. under PCC:VI. He takes small/ petty works on Work Order basis and attends such items like cleaning and removal of chokage in gully traps, drain pipes, waste plates etc. and such manholes which fall under the jurisdiction of CPWD as stipulated in Work Order from time to time on item rate basis. Obviously, payments are released to this contractor against work done based on such Work Orders strictly as per the relevant rules and regulations currently in vogue.

Therefore, there is no case whatsoever with regard to any employment of Shri Suresh Kumar as a Sewermain in CPWD. Accordingly, there could be no issue with regard to the alleged regularization of the said Shri Suresh Kumar as a Sewermain w.e.f. 9-5-88 or any other date.

Under the aforesaid facts and circumstances of this case, it prima facie amounts to misuse of the process of conciliation proceedings at the forum of Assistant Commissioner / Regional Labour Commissioner under the Ministry of Labour, Union of India.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

From perusal of the pleadings of the parties the following issues arise for adjudication:

1. Whether the workman applicant has completed 240 days work during the tenure of his employment and whether there is employer and employee relationship between the management and the workman?
2. Whether the claimant is workman in view of section 2(s) of the 10 ID Act, 1947?
3. Whether the claimant is entitled to reinstatement regularization?
4. Whether the workman applicant is entitled to Equal Pay for Equal Work, to what amount of back wages the workman is entitled?

ISSUE NO. 1

It was submitted from the side of the workman that he was engaged as Sewermain w.e.f. 09.05.1988. He was not paid even minimum wages. He was not paid the scale of regular Sewermain in CPWD.

The management treated the workman as contractor calling his work as work order. He was himself performing the work of the management under the control and supervision of the management.

It was submitted from the side of the management that the workman was working as Sewermain under the work charge category of Muster Roll/hand receipt category.

He was made payment on the work order basis and he was deputed on cleaning and removal of chokage in gully traps, drain pipes, waste, plates etc. and such manholes which fall under the jurisdiction of CPWD.

The management witness has admitted in his cross examination as under:—

"It is correct that the name of the workman Sh. S. Kumar appears in the complaint register starting from 09-05-1988."

It has been further admitted by the management witness as under :—

"It is correct that sewermain job has been given to the workman as per our record."

It was also admitted by the management witness as under:—

"I have brought previous record also today. He was engaged on daily wages @ Rs. 18.80 per day. Tender is called for six months to one year (witness states that the work had been given to the workman on basis of some tender since 09-05-1988 till date). This is very important to determine as to whether the workman is the regular employee of the management or is only a contractor to whom work is assigned on the basis of tenders. Management witness is directed to prepare a chart from 09-05-1988 up to his last assignment indicating as to how many people filled the tender and opted for doing this work and whether there was any break in the continuity of the service of this workman from 09-05-1988 till date. He shall also produce copy of the documents on which his attendance used to be marked. He shall also indicate as to from which date he was being paid monthly and from which date he was being paid on the basis of complaints attended by him. Terms and conditions of the tender shall also be filled by the management. There was no difference in the quantity of work done by him and he used to be paid on the basis of the complaint attended by him. Whatever complaints were being received were being given to him. The per complaint rate is Rs. 6.50 p. the presence of regular employment were being entered in this complaint book who were assigned the duties of the sewerage. Similar type of diary has been issued to the regular employees doing this job. There are regular employees also doing same type of sewerage job. Those regular employees are being paid the grade as per government rules. The workman was not working in the multi/storied building. The building job of which was entrusted to the workman belonged to the Central Government.

The management has admitted that the name of this workman has been entered in the complaint register starting from 08-05-1988. The management witness has admitted that the job of sewermain has been given to the workman as per their record. The management witness has further admitted that the workman has been continuously working

as Sewerman. The management witness has also admitted that he was engaged on daily wages and he was being paid on monthly basis.

It is settled law that even the contractual workers engaged through contractors for perennial nature of work, becomes the employee of the Principal Employer. In case contract is sham and ruse and in case it is found that a workman is working under control and supervision of the management and his services are integrated to the management and payment to him is being made by the management.

It has been held in (1992) 4 SCC 118. "Regularization Ad hoc/Temporary govt. employees - Principles laid down—Those eligible and qualified and continuing in service satisfactorily for long period have a right to be considered for regularization - Long continuance in service gives rise to a presumption about need for a regular post - But mere continuance for one year or so does not in every case raise such a presumption - Govt. should consider feasibility of regularization having regard to the particular circumstances with a positive approach and an empathy for the concerned person."

It has been held in 1997 AIR SCW Page 430 that the industrial adjudicator should decide whether there is valid contract or it is a mere ruse/camouflage and if it is found that the contractor is only a name lender the management should be directed to regularize the workmen. In JT 2003 (1) SC 465 the Hon'ble Supreme Court has held that industrial adjudication is appropriate remedy for the alleged contract workers. In (2000) 1 SCC 126 - the Hon'ble Supreme Court has held that there are multiple pragmatic approach / factors which should be considered in deciding employer and employee relationship. According to the criteria there should be control and integration. The management has doubtless control over the alleged contractor's men as they work in the establishment of the management. They are integrated to the service of the management. There are no terms and conditions of the contract so there is master and servant relationship. The creation of contract labour is only sham and camouflage and the employer cannot be relieved of his liabilities.

In Pollock Law of Torts a servant and an independent contractor has been defined as under :—

The distinction between a servant and a independent contractor has been the subject matter of a large volume of case-law from which the text-book writers on torts have attempted to lay down some general tests. For example, in Pollock's Law of Torts, (Pages 62 & 63 of Pollock on Torts, 15th Edn.) the distinction has thus been brought out:

"A master is one who not only prescribes to the workman the end of his work, but directs or at any moment may direct the means also, or, as it has been put, retains the power of controlling the work, a servant is a person subject to the command of his master as to the manner in which he

shall do his work...An independent contractor is one who undertakes to produce a given result but so that in the actual execution of the work is not under the order or control of the person for whom he does it, and may use his own discretion in things not specified beforehand.....".

In Salmond's Treatise on the Law of Torts the distinction between a servant and independent contractor has been indicated as under:

"What then, is the test of this distinction between a servant and an independent contractor? The test is the existence of a right of control over the agent in respect of the manner in which his work is to be done. A servant is an agent who works under the supervision and direction of his employer; an independent contractor is one who is his own master. A servant is a person engaged to obey his employer's orders from time to time; an independent contractor is a person engaged to do certain work, but to exercise his own discretion as to the mode and time of doing it - he is bound by his contract, but not by his employer's orders."

The test regarding independent contractor and intermediaries have been laid down in Hussainabhai, Calicut V. the Alath Factory Thezhilali Union Kozhikode [AIR 1978 SC 1410 (3 Judges)] "the true test may, with brevity, be indicated once again. Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom the workers have immediate or direct relationship as contract is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor. Myriad devices, half-hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38, 39, 42, 43 and 43-A of the Constitution. The Court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances."

This case law has been affirmed by the Constitution Bench Judgment in Steel Authority of India. In case the security job chokes off, the workmen would be laid off. Such contract is prohibited; it is not a contract for a given result.

My attention was drawn to another Constitution Bench Judgment - Steel Authority of India. It has been held as under :—

"Where a workman is hired in or in connection with the work of an establishment by the principal employer

through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workman. But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment, a question might arise whether the contract is a mere camouflage as in *Hussainabhai Calicut's case* (supra) and in *Indian Petrochemicals Corporation's case* (supra) etc; if the answer is in the affirmative, the workmen will be in fact an employee of the principal employer, but if the answer is in the negative, the workmen will be a contract labourer."

In the instant case the workmen have not been hired in connection with the work of a contractor but they have been hired by the contractor for the work of the respondents. So in the instant case there is contract of service between the principal employer and the workmen.

The Constitution Bench Judgment of Steel Authority of India is squarely applicable in the instant case. In *IT 2001 (7) SC 268* it has been held that "121 (5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of Contract Labour or otherwise, in an industrial dispute brought IOC before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse / camouflage to evade compliance with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the establishment concerned."

It has been held in this case that whether there is prohibition of contract labour or otherwise the industrial adjudicator will have to consider the question and in case the contract appears ruse and camouflage to evade compliance with various beneficial legislations the so called contract labour will have to be treated as the employee of the principal employer and he shall be directed to regularize the services of the contract workers.

Engagement of contract workers for perennial and regular nature of job is prohibited. The security function is a perennial nature of job. So long as the respondents exists there would be need of security for them, so the work is of existing, continuous and perennial in nature for such work contract workers cannot be employed.

According to well reorganization definition of contract it is an agreement for a given result. The result should be visible. Contract labourers can be engaged for the work of contractor only and not for the work of any establishment. In the present case the work is of the establishment and not of the contractor. The term supply of labour by a contractor is against human dignity. No one can be a supplier of human labour to any establishment. It is the duty of State to give employment to citizen and not of the contractors.

It is admitted by the management that the workman was engaged on 9-5-1988 and he has worked continuously up to 1-6-2004. During the pendency of the reference the management illegally removed the workman in 2004 violating Section 33 of the ID Act, 1947.

The management witness has admitted that by Circular letter dated 18-08-1993 the engagement of work order basis, hand receipt basis and contract basis was prohibited by the government. The workman has worked under the control and supervision of the management. MW 1 has not denied the continuous working of the workman from 9-5-1988 to 1-6-2004. The workman is not an independent contractor. He worked as per direction of the management authorities, so there is employer and employee between the management and the workman and the workman has completed 240 days in every year of his employment.

This issue is decided accordingly.

ISSUE No. 2

It was submitted from the side of the management that the workmen are independent contractors.

My attention was drawn to the judgment of Hon'ble Delhi High Court WP(C) No.7032 of 2005. The Hon'ble Court has placed the reliance on order dated 20-03-1993. The workmen worked under the direction of the Engineer Incharge. In the above circular the management directed the authorities of CPWD to send the list of such daily rated muster roll workers engaged on hand receipt or work order or any other basis defining the existing government instructions ensuring interalia termination of services of all such workers who have not completed 240 days services in two consecutive years. The probable demand requiring appointment of such workers may also be intimated to this Directorate. As such in the circular of 1993 a complete ban was imposed on engagement of workmen on work order or hand receipt and it was also directed that the list of those workers who have completed 240 days of services should also be intimated to the directorate. The Hon'ble High Court held that the workers engaged on work order basis shall also be daily rated workers and provisions of Section 25-F of the ID Act, 1947 would be attracted.

The claimant in this case is workman in view of section 2 (s) of the ID Act, 1947.

This issue is decided accordingly.

ISSUE No. 3

It was submitted from the side of the management that the workmen were engaged as contractors for cleaning the sewerlines. Even if it is found that there is direct relation of employer and employee the workmen may be given compensation in lieu of reinstatement.

It was submitted from the side of the workman that compensation is payable in cases where an undertaking has become sick or it has been closed or it is in economic loss. It has not been established that the bank is in economic loss and it is a sick industry. My attention was drawn by the Ld. Counsel of the workman to 2000 LLR 523 State of UP and Rajender Singh. The Hon'ble Apex Court ordered for reinstatement with full back wages as the services of the daily wage cleaner who worked for 4 years was spensed with without following the procedure for retrenchment. In the instant case also no retrenchment compensation has been paid. This case law squarely covers the instant case.

It has been held in 1978 Lab IC 1668 that in case service of a workman is terminated illegally the normal rule is to reinstate him with full back wages.

My attention was further drawn to AIR 2002 SC 1313. The Hon'ble Supreme Court has held that daily wage even if serving for a short period should be reinstated.

It was submitted from the side of the workman that in the instant case Sections 25 F, G of the ID Act are attracted.

In Section 25 of the ID Act it has been provided that if a workman has performed 240 days work and if the work is of continuous and regular nature he should be given pay in lieu of notice and retrenchment compensation.

It has been held by the Hon'ble Apex Court that there is no cessation of service in case provisions of Section 25 F are not complied. In the instant case no compensation has been paid to the workman.

In case a workman has worked for 240 days in a year and the work is of continuous and regular nature he should be paid retrenchment compensation. In case retrenchment compensation is not paid Section 25 F of the ID Act is attracted. There is no cessation of his services. He is deemed continued in service in the eye of law. In case there is breach of Section 25 F the service is continued and reinstatement follows as a natural consequence.

ID Act, 1947 has been enacted to safeguard the interest of the workmen belonging to poor segment of society. It appears that legislature wanted that such

workmen should not be harassed unnecessarily so Section 25 F, U, T and Clause 10 of Vth Schedule have been enacted. The objects and reasons of ID Act, 1947 show that the respondent management should not be permitted to indulge in any unfair labour practice. The workmen should not be engaged for years and then they should be removed all of a sudden. There is provision of retrenchment compensation for his removal. Retrenchment compensation is for compensating him otherwise so that he can survive long interregnum of unemployment. In the instant case no retrenchment compensation has been paid.

It was submitted from the side of the management that the Hon'ble Apex Court in 2006 (4) Scale has put down a complete ban on regularization and reinstatement. The Hon'ble Apex Court has held that employment can only be made on the basis of procedure established in that behalf envisaged by the Constitution. Equality of opportunity is the hallmark and the Constitution enshrines affirmative action to ensure that unequals are not treated equals. So public employment should be in terms of constitutional scheme.

It was further submitted that the Constitution Bench Judgment has afforded a right according to which the government is not precluded from making temporary appointments or engaging workers on daily wages.

The Government has got no license to make always appointment of daily wagers and to continue them for life time. Fixed term tenure appointments and temporary appointments cannot be the rule of public employment. At the time of making temporary appointments Articles 14, 16, 21, 23, 226 & 309 are infringed. There is no constitutional mandate that the government is at liberty to go on giving fixed term appointments for the entire tenure of service of an employee.

The Government or Public Sector units cannot continue incessantly to give temporary and fixed term appointments again and again. Since fixed term appointments and temporary appointments are not governed by any constitutional scheme, such discrimination will amount to vicious discretion. The Government of Public Sector unit will go on resorting to the method of pick and choose policy and give temporary and adhoc appointments to their favorites and thus the principles of equality enshrined in the constitution will be given a go bye. Such is not the intent of the Hon'ble Apex Court. However, in this judgment the provisions of the ID Act governing the services of the workman have not been declared unconstitutional. Reinstatement is the remedy provided in the ID Act for breach of several provisions enumerated there in or for breach of service rules provided in various labour welfare legislations.

A three Judges bench of the Hon'ble Apex Court has held in 1993 - II - LJ that termination of services affects the livelihood of not only of the employee but also of the

dependents. So in case of illegal termination of service the workman should be reinstated.

The workman was engaged as casual labour w.e.f. 9-5-1988 and when he raised the dispute his services were illegally terminated by the management in 2004. The workman has worked continuously from 1988 to 2004.

The workman was initially engaged on 09-05-1988 and he has rendered continuous service up to 26th October, 2004. As such he has served the management from 09-05-1988 to 26th October, 2004 and thereafter the management has illegally terminated the services of this workman.

The workman is a manual labour. He must be performing some duties of cleaning sewer etc., so he is entitled to 50% back wages. The workman is entitled to reinstatement along with 50% back wages since the termination of his services i.e. 26th October, 2004. He is further entitled to regularization.

It has been held in Constitution Bench Judgment in Uma Devi's case that in case a temporary employee has worked for 10 years even temporarily and not without the orders of the court the government should consider the feasibility of regularization. This workman has admittedly worked from 1988 to 2004, so he has rendered continuous service for 15 - 16 years. The Hon'ble Apex Court had directed for regularization of the services of the workman who have completed 10 years of service. This workman worked continuously for 15 16 years thereafter his services have been terminated, so this workman is entitled to regularization.

This issue is decided accordingly.

ISSUE No. 4

It was submitted from the side of the workman that in view of 1966 LLJ 134, AIR 1991 page 173 in view of Directive Principles of State policy has confirmed in Article 30(d) of the Constitution a casual workman cannot be denied the same salary of class - IV employees when they performed the same duties on regular basis. There should be equal pay for equal work and it should be treated as a fundamental right in service jurisprudence.

It has been held in (2003) 6 SCC 123 as under:

The principle of "equal pay for equal work" is not always easy to apply. There are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. It is a concept which requires for its applicability complete and wholesale identity between a group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales. The problem about equal pay cannot always

be translated into a mathematical formula. It is obvious from the judgment that the principles of equal pay for equal work cannot be applied everywhere. A daily wager holds no post. Scale of pay is attached to a definite post. This workman was not holding any definite post, so he cannot be compared with the regular and permanent staff for equal pay and allowances.

It has been further held in (2003) 1 SCC 250 as under:

"Equal pay for equal work - applicability of the principle of, held, depends not only on the nature or volume of work but also on the qualitative difference in reliability and responsibilities as well—even in case of same functions, responsibilities do make a real and substantial difference - It is for the claimant of parity to substantiate a clear - cut basis of equivalence and a resultant hostile discrimination - In absence of requisite substantiating material, High Court erred in granting the NMR workers' daily wagers/casual workers parity in pay with the regularly employed staff merely on presumption of equality of the nature of work - However, such workers, held, entitled to payment of prescribed minimum wages."

It has been held in this case that equal pay for equal work would depend upon not only the nature or the volume of work but also on the qualitative difference as regards reliability and responsibilities though the functions may be the same.

The workman was engaged on work order basis. He was not a regular employee, so he is not entitled to Equal Pay For Equal Work.

It has been held in the other issues that the workman has worked for 240 days every year during the entire period of his engagement. His services were illegally terminated on 26-10-2004 while the reference was pending. The workman is a manual worker. He must be doing some sort of work off and on. In the circumstances, the workman is entitled to 50% back wages from 26-10-2004.

This issue is decided accordingly.

The reference is replied thus:

The action of the management of CPWD in not regularizing the services of the workman Sh. Suresh Kumar, Sewerian is not justified. The workman is entitled to reinstatement along with 50% back wages since the date of termination of his services i.e. 26-10-2004. He is also entitled to regularization w.e.f. 26-10-2004. The management should reinstate the workman w.e.f. 26th October, 2004 and pay him 50% back wages and regularize his services within two months from the date of the publication of the award. Complaint no.06/2004 is decided accordingly.

The award is given accordingly.

Dated 31-3-2008

R. N. RAJ, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

का.आ. 1058.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सोपीडब्ल्यूडी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 62/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था:

[सं. एल-42011/65/96-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1058.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 62/96) of the Central Government Industrial Tribunal-cum Labour Court No-2, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of C.P.W.D. and their workmen, received by the Central Government on 16-04-2008.

[No. L-42011/65/96-IR (DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer: R.N. Rai I.D. No. 62/1996

IN THE MATTER OF:

Shri Hari Ram, Represented by
General Secretary,
CPWD Mazdoor Union,
E-26 (Old Qtr), Raja Bazar,
Baba Kharak Singh Marg,
New Delhi-110001.

Versus

Director General of Works, C.P.W.D.
Nirman Bhawan, New Delhi-110001.

AWARD

The Ministry of Labour, Government of India vide its Order No. L-42011/65/96-IR (DU) dated 30-5-96 have referred the dispute between the above parties for adjudication and the schedule is reproduced below:

"Whether the action of the management of CPWD in not regularizing the services of S/Shri Hari Ram, Rajender Singh, Masons and S/Shri Des Raj and Dharamvir, Plumbers is justified? If not, to what relief the concerned workmen are entitled to?"

That S/Shri Hari Ram and Rajinder Singh were initially engaged as Masons on full category and S/Shri Desh Raj and Dharamvir were initially engaged as Plumbers on full category and they were working under Delhi Aviation Division, CPWD, R. K. Puram, New Delhi and posted at Jharoda Kalan.

That Shri Dharamvir, Plumber was transferred w.e.f. 24-9-92 from Delhi Aviation Division to Jawahar Lal Nehru Stadium, Asian Games Division-III at Lodhi Road, New Delhi.

That full particulars of the workmen are given as under:

S. No. Name of the

Father's Name

Designation

Date of Engagement

1. Hari Ram	Prabhu Dayal	Mason	5-10-79
2. Rajender Singh	Man Singh	Mason	4-3-86
3. Des Raj	Mool Chand	Plumber	13-11-86
4. Dharam vir	Salag Ram	Plumber	11-12-86

That the above workmen have been performing their duties continuously without any break.

That the name of Shri Hari Ram was registered as Mason in the employment exchange. Copy of the same is marked as annexure "A" with this application.

That the name of Shri Rajender Singh was registered as Mason in employment exchange. Copy of the same is marked as Annexure 'B' with this application.

That the name of Shri Des Raj was registered as plumber in the employment exchange. Copy of the same is marked as Annexure "C" with this application.

That the name of Shri Dharamvir was registered as Plumber in the employment exchange. Copy of the same marked as Annexure "D" with this application.

That the above workmen have been performing their duties as skilled artisans in the divisions of the above management and same is confirmed as per the experience certificate issued by the officers concerned as under: that the concerned Engineers has issued certificate that Hari Ram is doing the job of full Mason in this campus since long time and the same is exhibited as Annexure A-I.

That the concerned Engineers has issued certificate that Rajender Singh is doing the job on full Mason in this campus since long time and the same is exhibited as Annexure B-I.

That concerned Engineer has issued certificate that Shri Des Raj is doing the job of full Plumber since long time and the same is exhibited as Annexure C-I.

That Shri Dharamvir has performed work of full Plumber upto 24-9-92 in the Delhi Civil Aviation Division and thereafter in the Asian Games Division-III, J.N. Stadium.

That all the four workmen have been working independently as Masons and Plumbers.

That in the assistant category, Masons/ Plumbers were getting wages in the time scale of Rs. 210-290 upto 31-12-85 and w.e.f. 1-1-86 in the pay scale of Rs. 800-1100.

That in the CPWD, the wages of skilled workmen in the category of Mason/ Plumber have been getting in the old pay scale of Rs. 260-400 and w.e.f. 1-1-86 in the pay scale of Rs. 950-1500.

That after the implementation of judgment of Hon'ble Supreme Court in the matter of Surinder Singh and others Vs. Engineer -in - Chief, CPWD dated 17-1-86 for equal pay for equal work, the daily rated workmen/ muster roll in the category of Mason/Plumber are getting wages in the full scale i.e. Rs. 260-400/950-1500 as skilled workmen.

That the management has not been paying the wages to the above workmen in the pay scale of Rs. 260-400/950-1500 but their wages are fixed arbitrarily in the assistant category as unskilled workmen in the pay scale of Rs. 210 290/-Rs. 800-1100 but the workmen have been performing their duties as full Mason/Plumber and working independently so come within the definition of skilled workmen as per CPWD Work charged Manual Vol. III and also as per the categorization under the Minimum Wages Act, 1948.

That the workmen have been performing the same duties as their counterparts have been doing on regular and work charged categories but the concerned workmen discriminated in the payment of pay and allowances for skilled category.

That at the time of filling up the vacancies through sponsorship from employment exchange, the Executive Engineer had conducted trade test for the above four workmen and after qualifying the said test conducted by the said authority, they were engaged for the work of Mason/Plumber, respectively.

That S/Shri Des Raj and Dharamvir, Plumbers had also qualified the trade test as prescribed by the Coordination Circle under the management of Plumber and the same is marked as Annexure -E with this application.

That Shri Ram Singh was appointed as Asstt. Mason but his services were regularized as Mason in the year 1986 in the pay scale of Rs. 950-1500 but S/Shri Hari Ram and Rajinder Singh, Plumbers, were discriminated even in the payment of pay and allowances in the scale of Rs. 950-1500 and till date their services have not been regularized by the management.

That the workmen have been performing their duties relating to masonry/Plumber works for maintenance of buildings which are of skilled nature.

That more than 25000 workers have been working under the above management in different divisions on the work of maintenance of buildings.

That according to Model Standing Rules under Industrial Employment Act, a workman having completed 90 days of continuous service deemed to have attained the status of permanent workman and the management has been want only denying the facilities to the workmen and thereby discriminating them amongst the same employments which is nothing than the hostile discrimination against the workmen concerned with this dispute. That as per Model Standing Orders under the Industrial Employment (Standing Orders) Act, 1946, in Schedule -I, the operative portion is reproduced as under:

Xx x x

Management filed written statement stating therein that

Contents of this para are matter of record.

In fact, Shri Hari Ram S/o Shri Prabhu Dayal was initially appointed on Muster Roll on 5-10-79 in the category of Assistant Mason and Shri Rajendra Singh S/o Shri Man Singh was initially appointed on Muster Roll on 4-3-85 in the category of Assistant Mason. They were never appointed as Mason as alleged in this para.

In reply to para 3, it is respectfully submitted that Shri Dharamveer, Assistant Plumber was transferred on 24-9-1992 from Delhi Aviation Division to Asian Games Division No. III, who was also initially appointed on Muster Roll as Assistant Plumber.

Contents of para 4 are not correct. The workmen were never appointed as Mason/ Plumber but as Assistant Mason/Assistant Plumber, particulars of their engagement are matter of record.

Contents of para 5 are wrong and denied. The workmen were engaged as Assistant Mason and Assistant Plumber in the category of Semi-skilled workers. The workers were performing their duties as per norms laid down for the respective categories.

Contents of para 6 are not correct. It is not understood as to how the workers have obtained the certificate, as alleged in this para.

In reply to para 7, it is wrong and denied that all the four workmen have been working independently as Mason and Plumbers. They were never deputed as such. They were deputed for the duties as per norms of their category of Assistant Workers i.e. Assistant Mason and Assistant Plumbers.

In reply to para 9, it is submitted that the scales mentioned in this para were meant for skilled workmen whereas the workmen to this case pertains to Semi-skilled category and not skilled category.

Para 10 needs no reply. However, it is respectfully submitted that the four workmen of this case were in the

assistant Category and they were given the scale meant for them.

In reply to para 11 it is again reiterated that the workmen were engaged as Assistant Mason and assistant Plumber and have not been working independently. They are not covered by the definition of Skilled-workmen.

Contentions raised in para 12 and 13 are wrong and denied. The workers were engaged as Semi-skilled workers in the category of assistant Mason and Assistant Plumber.

Contentions raised in para 14 are wrong and denied. Qualifying the trade-test does not mean full scale, until and unless they are so appointed. Passing the trade test means that they can be appointed to the post of Plumber and Mason as and when vacancies are available according to their seniority.

In reply to para 15 it is submitted that S/Shri Hari Ram, Rajinder Singh are Assistant Masons and not Plumbers. The matter of their regularization is under process and active consideration of the competent authority. Regularisation depends upon the availability of posts and eligibility of workers.

In reply to para 16 it is respectfully submitted that regularization depends on various factors and as already stated the regularization is under consideration depending upon various factors such as sanction of posts, availability of vacancies/posts and eligibility of the workers.

Para 17 and 18 need no reply as no citation has been given and full judgement has not been attached. Hence, the respondents are unable to state anything in this case. There has been no discrimination. No names of junior persons regularized have been disclosed. Hence Respondents are unable to say anything in this regard. To the best of their knowledge, no junior person has been regularized. If there is any, workmen may be directed to supply the names of such junior persons for consideration and investigation of the matter.

In reply to para 19 it is respectfully submitted that the workmen are performing petty repairs of Semi-skilled nature and not the construction of maintenance work of government Buildings. The workers are being paid according to the Wages Act and Industrial Employment Act and Rules made thereunder.

Contentions raised in para 20 and 21 are wrong and denied. The workers have been performing their duties relating to the Assistant category, which is not of skilled nature.

Contents raised in para 22 and 23 are wrong and denied. However, it is respectfully submitted that the matter of regularization is already under active consideration of competent authority depending upon their eligibility and availability.

In the facts and circumstances of the case, the prayer of the applicants cannot be granted. It is accordingly prayed

that the application, being misconceived are wrong, may kindly be dismissed with costs.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It is admitted to the management that Sh. Hari Ram was engaged as Mason on 05-10-1989 and his services have not been regularized so far. Sh. Rajinder Singh was engaged as Mason on 04-03-1988 and he has been still working. Sh. Desh Raj was engaged as Plumber on 13-11-1986 and his services have been continued. Sh. Dharamvir was engaged as Plumber on 11-02-1986 and his services are still being continued.

From the above it becomes quite obvious that the workman Desh Raj has rendered 21 years of service. This workman is still working as temporary employee. Payment/ Grade of skilled workman has not been made so far.

MW 1 has admitted in his cross-examination that the orders dated 20.10.2000 were issued by the S.C. Co-ordination of CPWD for the regularization of Sh. Hari Ram & Sh. Rajinder Singh w.e.f. 17.10.1996 in Assistant Category.

Sh. Rajinder Singh was engaged on 04.03.1986 and his services have been regularized in Assistant Category since 17.10.1996. It was also brought to my notice that the services of Sh. Dharamvir has also been regularized. The management has not regularized the services of Sh. Desh Raj. He has been working continuously as Plumber from 13.11.1986. Sh. Dharamvir is junior to Sh. Desh Raj and, his services have been regularized. The workman Sh. Desh Raj has served the management for 20 - 21 years.

It was submitted from the side of the management that in Manika Devi's case the judgment of Hon'ble Apex Court of seven Judges Bench has held that the government should follow the principles of reasonableness in execution of action. The services of other three workmen of this case has been made regular. This workman has worked for almost 20 - 21 years. The Hon'ble Apex Court in 2007 (12) Scale has held that it would surely not be reasonable if claim of regularization is denied even after such a long period of 21 years. The management has violated Article 14 of the Constitution of India on the grounds of arbitrariness and unreasonableness. If an employee has put such a long service, benefit of regularization cannot be denied to him and he could not be made to face the same selection which fresh recruits have to face.

The management has taken the plea that the posts are not sanctioned and appropriate action will be taken when posts are sanctioned. It is admitted to the management

that a junior employee to Sh. Desh Raj engaged as Plumber has been regularized. In the circumstances non-regularization of the services of Sh. Desh Raj is violative of Article 14 of Constitution of India.

It is no doubt, the prerogative of the government to sanction posts but in case posts are not sanctioned for 20 - 21 years it would be un-reasonable and arbitrary and violative of Article 14 of the Constitution of India. No employee can be kept temporary for 20 - 21 years even in view of the recent judgment of Uma Devi's case of the Constitution Bench Judgment.

It has been held in this case that in case a workman has worked continuously for 10 years, the government should consider the feasibility of regularization. Sh. Desh Raj deserves regularization in view of the regularization of the services of Sh. Hari Ram and, Dharamvir and Sh. Rajinder Singh w.e.f. 17-10-1996. This workman is also entitled to regularization and all the emoluments from 17-10-1996 as the management has done in the case of Sh. Rajender Singh.

The reference is replied thus:

The action of the management of CPWD in not regularizing the services of Shri Desh Raj, Plumber is not justified. The management should regularize the services of Sh. Desh Raj, Plumber from 17-10-1996 and pay him arrears accordingly within two months from the date of the publication of the award.

The award is given accordingly.

Date : 28.03.2008

R. N. RAI, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

का.आ. 1059.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सोपीडस्व्यूडी के प्रबंधन के संबद्ध निबोधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण त्रय न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 6/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-42011/229/94-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.6/96) Central Government Industrial Tribunal-cum Labour Court No-2, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 16-04-2008.

[No. L-42011/229/94-IR (DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R. N. RAI

I.D. No. 06/1996

IN THE MATTER OF:

Shri Rattan Lal and Vijay Pal,
C/o CPWD Mazdoor Union,
E-26 (Old Qtr), Raja Bazar,
Baba Kharak Singh Marg,
New Delhi.

Versus

The Executive Engineer,
'G' Division, CPWD,
East Block-II, Level II,
R.K. Puram, New Delhi

AWARD

The Ministry of Labour by its letter No. L 42011/229/94.IR.(DU) dated 27/28th December, 1995 DT.27/28-12-1995 has referred the following point for adjudication:

The point runs as hereunder:

"Whether the action of the management of Executive Engineer, CPWD in terminating the services of Shri Rattan Lal and Vijay Pal Sweeper and Sewerman respectively w.e.f. 1-9-93 is justified? If not, to what relief the workmen are entitled?"

The workmen applicants have filed claim statement. In the claim statement it has been stated that they were working under the direct control of Director General of Works, CPWD, Nirman Bhawan, New Delhi.

That the management of CPWD has been recruiting Daily Rated workers by calling them Muster Roll Workers, Hand Receipt workers and Work order workers and all the workmen have been performing same and similar duties as their counterparts in the regular category of workcharge in the time scale.

That this fact is confirmed by letter no.34/1793-EC.X dated 18th August, 1993 issued by the Director of Administration, CPWD to all the Chief Engineers and their subordinate offices not to engage daily rated workmen on muster roll, hand receipt or work order. The copy of the said order is enclosed herewith and marked as Annexure-A with this claim application.

That as per Hon'ble Supreme Court order dated 17-1-86 in the matter of Surinder Singh & Ors Vs. Engineer-in-Chief, CPWD, all the daily rated workers have got the arrears of equal pay in the time scale as their counterparts have been getting in the time scale attached with the respective posts and are still daily rated workers in the said

establishment but the daily rated workers engaged on the so-called nomenclature of work order have got only wages fixed under the Minimum Wages Act fixed by the appropriate government from time to time.

That full particulars of workers connected with this dispute are given as under:

- (I) Shri Rattan Lal S/o Shri Shyam Lal was engaged as Sweeper on unskilled work w.e.f. 6-1-86 and he worked continuously himself under the direct control and supervision of the above management upto the date of termination i.e. 1-9-93 without any compensation, notice, notice pay etc. as provided under the Industrial Disputes Act, 1947.
- (II) Similarly, Shri Vijay Pal S/o Shri Champat was also engaged as Sewerman w.e.f. 18-4-1990 with the management and worked continuously himself under the direct control and supervision of the above management upto the date of termination i.e. 1-9-1993, without notice, notice pay, compensation etc. as prescribed under the provisions of Industrial Disputes Act, 1947.
- (III) That as per the classification of the management of CPWD, regular Sewerman has been classified as skilled workman and getting the wages in the pay scale of Rs. 950-1500 but the concerned workman Shri Vijay Pal was paid only minimum wages fixed for unskilled workmen for the work performed by him during his employment with the management.

That the management did not serve proper notice, notice pay or gratuity as per Industrial Disputes Act, 1947 and also violated Section 25(f) of the said act.

That many junior workmen working in the CPWD were retained in service and the above workmen have been terminated when they demanded wages in the proper pay scale as equal pay for equal work which the management was already paying to the daily rated workmen whose nomenclature were termed by the management as Sweeper either on muster roll or hand receipt or Sewerman on muster roll or hand receipt.

That the management discriminated in payment of wages even between the daily rated workmen which is also unfair labour practice as envisaged in the Fifth Schedule of Industrial Disputes Act, 1947.

That the establishment of the management to undertake work of maintenance and construction of buildings, supply of electricity and water etc. is covered under the Payment of Wages Act thereby covered under the Industrial Employment (Standing Orders) Act, 1946 and as per the said Act, the workmen are entitled to permanent status after completion of 90 days of service.

That the management with a view to deny the workmen permanent status after completion of 90 days of

service terminated their services which also unfair labour practice under the said provisions of the Act.

That the workmen are not only entitled to be reinstated in service but also are entitled to be reinstated in the time scale as daily rated workers have been getting wages in the time scale except increment as per the order of DGW, CPWD complying with the judgment of Hon'ble Supreme Court in the matter of *Surender Singh & Others Vs. Engineers-in-Chief, CPWD* for the payment of equal pay for equal work to the daily rated workers.

That the action of the management for terminating the services of workmen S/Shri Rattan Lal and Vijay Pal Sweeper and Sewerman respectively w.e.f. 1-9-93 neither justified nor legal.

That both the workmen are entitled to be reinstated in the time scale attached with the respective posts w.e.f. 1-9-1993 with full back wages, continuity in service with all consequential benefits.

The management has filed written statement. In the written statement it has been stated that the above said claimants have no *locus standi* to file this claim against the respondent management being there is no industrial dispute between the parties.

That there is no relationship of Employer and employee and that a master and servant either existing or otherwise exists between the claimant and the respondent management i.e. C.P.W.D., 'G' Division.

That there is no industrial dispute between the parties and there is no relationship existing between the claimants and the management as an employee and employer. Therefore the present reference is not maintainable and is liable to be quashed on this short ground and the claim of the claimant is not supported by an affidavit therefore the claim is not maintainable in the eye of law and in the interest of justice at all.

That this court has no jurisdiction to entertain such references being the reference made in the present case is not maintainable and is not entertainable. Therefore, it is liable to be rejected/dismissed.

That by virtue of the position of the applicant-claimant and the status of the applicant-claimant as a contractor, they did not answer the description of the word "workmen" as defined in clause (s) of Section 2 of the Industrial Disputes Act 1947. In view of this position of the matter the application of the applicant-claimant is utterly misconceived and the same deserve to be dismissed outrightly in limine.

That the above said claimants were engaged as a contractor and they were awarded the contract for cleaning of sewerlines on complaint basis and they were never engaged as an employee or a workman on daily wages and they were never designated as a sewerman.

That the above said claimants were engaged as a contractor workmen and they are bound and governed by

Chapter III of Contracts of CPWD Manual and the Arbitration and Litigation cases of Section 36 of the said volume. Therefore, when dispute arises between the parties then they can approach the management to appoint the arbitrator only.

That without prejudice to the above, it is submitted that the present dispute referred by the Government of India to this honourable court/tribunal for adjudication is not an industrial dispute as defined under section 2(k) of Industrial Disputes Act, 1947 because it is not a case of discharge, dismissal retrenchment or termination of the services of the claimant. As already submitted above that it is a case of contractor ship which is not come under the purview of the Industrial Dispute Act, 1947 and the provision of the Industrial Dispute Act, 1947 does not apply in this case. Therefore, the present reference made by the government in that respect is without jurisdiction and is liable to be quashed out rightly by this honourable court.

The workmen applicants have filed rejoinder. In the rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard and perused the written briefs and the papers on the record.

From perusal of the pleadings of the parties the following issues arise for adjudication:

1. Whether the workmen applicants have completed 240 days work during the tenure of their employment and whether there is employer and employee relationship between the management and the workmen?
2. Whether the claimants are workman in view of Section 2(s) of the ID Act, 1947.
3. Whether the claimants are entitled to reinstatement/regularization?
4. Whether the workmen applicants are entitled to Equal Pay for Equal Work?
5. To what amount of back wages the workmen are entitled?

ISSUE NO. 1

It was submitted from the side of the workmen that the workman Sh. Rattan Lal was engaged as sweeper on unskilled work w.e.f. 06-01-1986 and he worked continuously himself under the direct control and supervision of the above management upto the date of termination i.e. 01-09-1993 without any retrenchment compensation, notice pay etc. as provided in Section 25-F of the ID Act, 1947. Sh. Vijay Pal was also engaged as Sweeper w.e.f. 18-04-1990 with the management and he worked continuously under the control and supervision of

the management till 01-09-1993. His services were terminated without any retrenchment compensation or pay in lieu of notice.

It was further submitted that the Administrator of CPWD issued an order dated 18-08-1993 to all the Chief Engineers not to engage workmen on muster roll, hand receipt or contract worker and accordingly the management terminated the services of the workman on 01-09-1993.

It was submitted from the side of the management that the status of the claimants was as a contractor. They did not answer the description of the word "workmen" as defined under clause 2(s) of the ID Act, 1947.

It was further submitted that these workmen were awarded the contract for cleaning of sewerlines on complaint basis and they were never engaged as an employee and they were never designated as Sewermen. The workmen were engaged under Chapter - III Contract of CPWD Manual and the Arbitration and Litigation Cases 33 of the said volume.

The workmen have filed photocopy of work order which bears the seal and signature of the Asstt. Engineer from pages 37 to 229. These photocopies establish the fact that they have received payment directly from the management and these photocopies have been signed by the officials of the management and these photocopies have been admitted by the management. So these photocopies have the force of the original ones. The originals cannot be said to be in the possession of the workmen, so they have filed the photocopies and these photocopies have been admitted by the management, so these photocopies are admissible in evidence.

From perusal of these photocopies it becomes quite obvious that the workmen have worked under the control and supervision of the management. The management has decided what is to be done and how it is to be done.

It is settled law that for perennial nature of work engagement of contract labour is prohibited as per Section 10(4) of the CLRA Act, 1970. Cleaning of the sewerlines is perennial nature of work and contractors or contractor's men cannot be engaged.

The management witness has admitted that the documents produced by them are correct including the work diary marked "X". He has also admitted that the inquiry clerk used to tell the workman where to go for the job. This witness has further admitted that payment used to be made to the employees on the monthly basis on the basis of work done by them at the relevant period. This witness has admitted the working of these two workmen and payment of monthly wages.

In case a workman engaged as contractor, worked under the supervision and control of the management he becomes an employee of the management.

It has been held in (1992) 4 SCC 118, "Regularization *Ad hoc*/Temporary government employees—Principles laid

down - Those eligible and qualified and continuing in service satisfactorily for long period have a right to be considered for regularization - Long continuance in service gives rise to a presumption about need for a regular post - But mere continuance for one year or so does not in every case raise such a presumption - Government should consider feasibility of regularization having regard to the particular circumstances with a positive approach and an empathy for the concerned person."

It has been held in 1997 AIR SCW Page 430 that the industrial adjudicator should decide whether there is valid contract or it is a mere ruse / camouflage and if it is found that the contractor is only a name lender the management should be directed to regularize the workmen. In JT 2003 (1) SC 465—the Hon'ble Supreme Court has held that industrial adjudication is appropriate remedy for the alleged contract workers. In (2000) 1 SCC 126 - the Hon'ble Supreme Court has held that there are multiple pragmatic approach/ factors which should be considered in deciding employer and employee relationship. According to the criteria there should be control and integration. The management has doubtless control over the alleged workmen as they worked in the establishment of the management. They are integrated to the service of the management. The creation of contract labour is absolutely sham and camouflage and the employer cannot be relieved of his liabilities.

In Pollock Law of Torts a servant and an independent contractor has been defined as under:

The distinction between a servant and a independent contractor has been the subject matter of a large volume of case-law from which the text-book writers on torts have attempted to lay down some general tests.

For example, in Pollock's Law of Torts, (Pages 62 & 63 of Pollock on Torts, 15th Edn.) the distinction has thus been brought out:

"A master is one who not only prescribes to the workman the end of his work, but directs or at any moment may direct the means also, or, as it has been put, retains the power of controlling the work, a servant is a person subject to the command of his master as to the manner in which he shall do his work. An independent contractor is one who undertakes to produce a given result but so that in the actual execution of the work is not under the order or control of the person for whom he does it, and may use his own discretion in things not specified beforehand....."

In Salmond's Treatise on the Law of Torts the distinction between a servant and independent contractor has been indicated as under:

"What then, is the test of this distinction between a servant and an independent contractor? The test is the existence of a right of control over the agent in respect of the manner in which his work is to be done. A servant is an agent who works under the supervision and direction of his employer; an independent contractor is one who is his

own master. A servant is a person engaged to obey his employer's orders from time to time; an independent contractor is a person engaged to do certain work, but to exercise his own discretion as the mode and time of doing it he is bound by his contract, but not by his employer's orders."

The test regarding independent contractor and intermediaries have been laid down in Hussainabhai, Calicut V. the Alath Factory Thezhilali Union kozhikode [(AIR 1978 SC 1410 (3 Judges))] "the true test may, with brevity, be indicated once again. Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom the workers have immediate or direct relationship as contract is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor. Myriad devices, half-hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38, 39, 42, 43 and 43-A of the Constitution. The Court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances."

This case law has been affirmed by the Constitution Bench Judgment in Steel Authority of India. In case the security job chokes off, the workmen would be laid off. Such contract is prohibited; it is not a contract for a given result.

My attention was drawn to another Constitution Bench Judgment - Steel Authority of India. It has been held as under :—

"Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workmen. But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment, a question might arise whether the contract is a mere camouflage as in Hussainabhai Calicut's case (supra) and in Indian Petrochemicals Corporation's case (supra) etc; if the answer is in the affirmative, the workmen will be in fact an employee of the principal employer, but if the answer is in the negative, the workmen will be a contract labourer."

In the instant case the workmen have not been hired in connection with the work of a contractor but they have been hired by the management for the work of the respondents. So in the instant case there is contract of service between the principal employer and the workmen.

The Constitution Bench Judgment of Steel Authority of India is squarely applicable in the instant case. In JT 2001 (7) SC 268 it has been held that "121(5) On, issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of Contract Labour or otherwise, in an industrial dispute brought IOC before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the establishment concerned."

It has been held in this case that whether there is prohibition of contract labour or otherwise the industrial adjudicator will have to consider the question and in case the contract appears ruse and camouflage to evade compliance with various beneficial legislations the so called contract labour will have to be treated as the employee of the principal employer and he shall be directed to regularize the services of the contract workers.

Engagement of contract workers for perennial and regular nature of job is prohibited. The sewerage work is a perennial nature of job. So long as the respondents exists there would be need of sewermen, so the work is of existing, continuous and perennial in nature for such work contract workers cannot be employed.

According to well reorganization definition of contract it an agreement for a given result. The result should be visible. Contract labourers can be engaged for the work of contractor only and not for the work of any establishment. In the present case the work is of the establishment and not of the contractor. The term supply of labour by a contractor is against human dignity. No one can be a supplier of human labour to any establishment. It is the duty of State to give employment to its citizen and not of the contractors. Contractors cannot supply labour to any establishment.

These workmen have worked under the control and supervision of the management. They have not been supplied by any other contractor. There is no contract agreement as per the provisions of the CLRA Act, 1970. The workmen performed regular nature of work. They were engaged by the management and they worked according to their directions. They received monthly payment from the management.

In the facts and circumstances of the case there is master and servant relationship between the management and the workmen and the workmen have completed 240 days in every year of their employment as per even the admission of MW 1 in his cross-examination. Thus, they have served the management for 240 days every year during the tenure of their employment. There is master and servant relationship between the management and the workmen.

This issue is decided accordingly.

ISSUE NO. 2

It was submitted from the side of the management that the workmen are independent contractors.

My attention was drawn to the judgment of Hon'ble Delhi High Court WP(C) No. 7032 of 2005. The Hon'ble Court has placed the reliance on the circular dated 20.03.1993. The workmen worked under the direction of the Engineer in-charge. In the above circular the management directed the authorities of CPWD to send the list of such daily rated master roll workers engaged on hand receipt or work order or any other basis defining the existing government instructions ensuring intellia termination of services of all such workers who have not completed 240 days services in two consecutive years. The probable demand requiring appointment of such workers may also be intimated to this Directorate. As such in the circular of 1993 a complete ban was imposed on engagement of workmen on work order or hand receipt and it was also directed that the list of those workers who have completed 240 days of services should also be intimated to the directorate. The Hon'ble High Court held that the workers engaged on work order basis shall also be daily rated workers and provisions of Section 25-F of the 10 Act, 1947 would be attracted.

The claimants have been continuously engaged on work order basis. They worked under the direction of the management. The management decided what was to be done and how was it to be done. The time and mode of work was decided by the management.

In the circumstances these claimants are workmen in view of section 2(s) of the 10 Act, 1947.

This issue is decided accordingly.

ISSUE NO. 3

It was submitted from the side of the management that the workmen were engaged as contractors for cleaning the sewerlines. Even if it is found that there is direct relation of employer and employee the workmen may be given compensation in lieu of reinstatement.

It was submitted from the side of the workman that compensation is not payable in cases where an undertaking has become sick or it has been closed or it is in economic loss. It has not been established that the bank is in economic loss and it is a sick industry. My attention was drawn by the Ld. Counsel of the workman to 2000 LLR 523 State of

UP and Rajender Singh. The Hon'ble Apex Court ordered for reinstatement with full back wages as the services of the daily wager cleaner who worked for 4 years was dispensed with without following the procedure for retrenchment. In the instant case also no retrenchment compensation has been paid. This case law squarely covers the instant case. It has been held in 1978 Lab IC 1668 that in case service of a workman is terminated illegally the normal rule is to reinstate him with full back wages.

My attention was further drawn to AIR 2002 SC 1313. The Hon'ble Supreme Court has held that daily wager even if serving for a short period should be reinstated.

It was submitted from the side of the workman that in the instant case Sections 25-F, G of the ID Act are attracted. In section 25 of the ID Act it has been provided that if a workman has performed 240 days work and if the work is of continuous and regular nature he should be given pay in lieu of notice and retrenchment compensation. It has been held by the Hon'ble Apex Court that there is no cessation of service in case provisions of section 25-F are not complied. In the instant case no compensation has been paid to the workman. In case a workman has worked for 240 days in a year and the work is of continuous and regular nature he should be paid retrenchment compensation. In case retrenchment compensation is not paid section 25-F of the ID Act is attracted. There is no cessation of his services. He is deemed continued in service in the eye of law. In case there is breach of section 25-F the service is continued and reinstatement follows as a natural consequence. ID Act, 1947 has been enacted to safeguard the interest of the workmen belonging to poor segment of society. It appears that legislature wanted that such workmen should not be harassed un-necessarily so section 25 F, U, T and Clause 10 of Vth Schedule have been enacted. The objects and reasons of ID Act, 1947 show that the respondent management should not be permitted to indulge in any unfair labour practice. The workmen should not be engaged for years and then they should be removed all of a sudden. There is provision of retrenchment compensation for his removal. Retrenchment compensation is for compensating him otherwise so that he can survive long interregnum of unemployment. In the instant case no retrenchment compensation has been paid.

It was submitted from the side of the management that the Hon'ble Apex Court in 2006 (4) Scale has put down a complete ban on regularization and reinstatement.

The Hon'ble Apex Court has held that employment can only be made on the basis of procedure established in that behalf envisaged by the Constitution. Equality of opportunity is the hallmark and the Constitution enshrines affirmative action to ensure that unequals are not treated equals. So public employment should be in terms of constitutional scheme.

It was further submitted that the Constitution Bench Judgment has afforded a right according to which the government is not precluded from making temporary appointments or engaging workers on daily wages.

The Government has got no license to make always appointment of daily wagers and to continue them for life

time. Fixed term tenure appointments and temporary appointments cannot be the rule of public employment. At the time of making temporary appointments Articles 14, 16, 21, 23, 226 & 309 are infringed. There is no constitutional mandate that the government is at liberty to go on giving fixed term appointments for the entire tenure of service of an employee. The Government or Public Sector units cannot continue incessantly to give temporary and fixed term appointments again and again. Since fixed term appointments and temporary appointments are not governed by any constitutional scheme, such discrimination will amount to vicious discretion. The Government or Public Sector unit will go on resorting to the method of pick and choose policy and give temporary and ad hoc appointments to their favorites and thus the principles of equality enshrined in the constitution will be given a go bye. Such is not the intent of the Hon'ble Apex Court. However, in this judgment the provisions of the ID Act governing the services of the workman have not been declared unconstitutional. Reinstatement is the remedy provided in the ID Act for breach of several provisions enumerated therein or for breach of service rules provided in various labour welfare legislations.

Section 11 A of the ID Act stipulates that in case the Tribunal is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstance of the case may require. According to this benign provision this Tribunal has the authority to set aside the order of discharge or dismissal and reinstate the workman on the terms and conditions as it thinks fit.

A three Judges bench of the Hon'ble Apex Court has held in 1993 - II - LLJ that termination of services affects the livelihood of not only of the employee but also of the dependents. So in case of illegal termination of service the workman should be reinstated. Reinstatement should not be misconceived as regularization. By the order of reinstatement the status quo ante of the workman is restored. He is given back wages in order to compensate him for his illegal disengagement. This is a special remedy provided in ID Act and it has not been annulled and set aside by any judgment of the Hon'ble Apex Court. The provisions of the ID Act are still constitutional and they are to be given effect too.

In case the workman is reinstated with back wages the respondents have every right, after payment of back wages and reinstatement, to retrench him validly as following the principles of first come last go so that section 25, G & H of the ID Act are not violated.

These workmen have worked for 4 - 6 years and it has been held while deciding the issue no. 1 that there is master and servant relationship and the workmen worked under the control and supervision of the management. The management is the master and the workmen are the servants. The workmen have not been paid retrenchment compensation or one month's pay in lieu of notice.

From the above discussion it becomes quite obvious that the workmen have been engaged for cleaning the sewerlines. The work is of permanent nature. Contract Labour is prohibited for a work which is of continuous and perennial in nature. Engagement of workmen as a contract workmen by the management is absolutely illegal and against the provisions of CLRA Act, 1970. The workmen have themselves been made to sign work order. The management by its circular of 1993 prohibited the engagement of workmen on hand receipt basis or work order basis. The workmen have worked for 4 - 6 years. The work is still existing. In the circumstances the workmen are entitled to reinstatement.

This issue is decided accordingly.

ISSUE No. 4

It was submitted from the side of the workman that in view of 1966 LLJ 134, AIR 1991 page 173 and in view of Directive Principles of State policy has confirmed in Article 30(d) of the Constitution a casual workman cannot be denied the same salary of Class - IV employees when they performed the same duties on regular basis. There should be equal pay for equal work and it should be treated as a fundamental right in service jurisprudence.

It has been held in (2003) 6 SCC 123 as under:

"The principle of 'equal pay for equal work' is not always easy to apply. There are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. It is a concept which requires for its applicability complete and wholesale identity between a group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales. The problem about equal pay cannot always be translated into a mathematical formula.

It is obvious from the judgment that the principles of equal pay for equal work cannot be applied everywhere. A daily wager holds no post. Scale of pay is attached to a definite post. This workman was not holding any definite post, so he cannot be compared with the regular and permanent staff for equal pay and allowances.

It has been further held in (2003) 1 SCC 250 as under:

"Equal pay for equal work - applicability of the principle of, held, depends not only on the nature or volume of work but also on the qualitative difference in reliability and responsibilities as well - Even in case of same functions, responsibilities do make a real and substantial difference - It is for the claimant of parity to substantiate a clear cut basis of equivalence and a resultant hostile discrimination. In absence of requisite substantiating material, High Court erred in granting the NMR workers/daily wagers/casual workers parity in pay with the regularly employed staff merely on presumption of equality of the nature of work - However, such workers, held, entitled to payment of prescribed minimum wages."

It has been held in this case that equal pay for equal work would depend upon not only the nature or the volume of work but also on the qualitative difference as regards

reliability and responsibilities though the functions may be the same.

The workmen have worked as casual labours for 4 - 6 years. They are not entitled to Equal Pay for Equal Work.

This issue is decided accordingly.

ISSUE NO. 5

It was submitted by the management that payment of full back wages is not the natural consequence of the order of discharge or dismissal being set aside. It has been held in (2003) 6 SCC 141 that it is incumbent upon the labour court to decide the quantum of back wages.

It has been further held in this case that payment of back wages having discretionary element involved it is to be dealt with the facts and circumstances of the case.

No definite formula can be evolved.

It has been further held in this case that payment of back wages in its entirety is the statutory sanction. In (2003) 4 SCC 27 the Hon'ble Apex Court held that in view of delay in raising the dispute and initiating the proceedings back wages need not be allowed. In the instant case there is no delay at least on the part of the workman in raising the dispute.

In 1978 Lab IC 1968 - three Judges Bench of the Hon'ble Apex Court held that payment of full back wages is the normal rule. In case services have been illegally terminated either by dismissal or discharge or retrenchment, in such circumstance the workman is entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. In the instant case the workman was always ready to work but he was not permitted on account of invalid act of the employer.

In 2005 IV AD SC 39—three Judges Bench of the Hon'ble Apex Court held that reinstatement with full back wages is justified. In this case the workman has performed more than 240 days work and he has been retrenched without payment of compensation and pay in lieu of notice.

The workmen are manual workers. They must be doing some sort of work off and on. They are not employed in any establishment. They must have been doing some sort of work for their own survival and for the survival of their family. In the facts and circumstances of the case the workmen are entitled to 25% back wages as there is delay in raising the dispute.

This issue is decided accordingly.

The reference is replied thus:

The action of the management of Executive Engineer, CPWD in terminating the services of Shri Rattan Lal and Vijay Pal Sweeper, Sewermen respectively w.e.f. 1.9.93 is not justified. The management should reinstate these workmen along with 25% back wages within two months from the date of publication of the award.

The award is given accordingly.

Date: 31.03.2008

R. N. RAI, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

क्र.आ. 1060.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल सिल्क टेक्नोलॉजिकल रिसर्च इंस्टिट्यूट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण ग्राम न्यायालय नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 45/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/195/94-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1060.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/95) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure, in the industrial dispute between the employees in relation to the management of Central Silk Technological Research Institute and their workmen, which was received by the Central Government on 16-4-2008.

[No. L-42012/195/94-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. RAI I.D. No. 45/1995

IN THE MATTER OF :

Sh. Pradeep Barnola,
S/o. Sh. M.N. Barnola,
Type - 87, New Forest PRL,
Dehradun.

— Claimant

VERSUS

1. The Assistant Director,
Silk Technological Research Institute,
Demonstration-cum-Training Centre,
Silk Board, 4 Special Wingh,
Dehradun.

2. The Dy. Director,
Central Silk Technological Research Institute,
Regional Office : Central Silk Board,
Gram : Rochipur Majra,
Dehradun.

3. The Director,
Central Silk Technological Research,
Central Silk Board,
Gamandi Billa, Bangalore.

— Respondents

AWARD

The Ministry of Labour by its letter No. L-42012/195/94-IR(DU) CENTRAL GOVERNMENT Dt.22-3-1995 has referred the following point for adjudication :

The point runs as hereunder :

"Whether the action of the management of Central Silk Technological Research Institute, Nation Sericulture Project, Central Silk Board, Dehradun in terminating the services of Sh. Pradeep Prasad Barnola, S/o. Sh. M. N. Barnola, Casual Labour w.e.f. 31-5-1993 is legal and justified? If not, to what relief the workman is entitled."

The case of the workman is that he was engaged on daily wages w.e.f. 16-7-1991 on a permanent nature of work. His services were terminated on 31-5-1993 illegally without holding any inquiry. No show cause notice was given to the workman before termination of his services. He has worked for more than 240 days in every year of his employment.

The case of the management is that the workman was engaged as daily rated casual labour on casual nature of work. He did not perform his duty sincerely and honestly. He has been given warnings several times still he did not improve, so his services were terminated.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workman that no inquiry has been held against his un-satisfactory work. The workman was removed after giving warnings only.

The workman has admitted in his cross-examination that he was a casual labour from 16-7-1991 to 31-5-1993. He has also admitted in his cross-examination that he was warned three times during his employment.

The management has filed all the warning letters, some of which had been admitted by the workman. The workman has admitted the letter dated 22-10-1991, Ex. MW2. He has not admitted letters dated 23-10-1991, 28-5-1992, 26-2-1993 and 16-3-1993. He has admitted, Ex. MW 3 in which it has been mentioned that the workman has been warned several times for resuming his duties punctually but he went away with the keys of the office. Thus, the workman has admitted that several warnings were given to him and once he went away with keys of the office.

In the cross-examination the workman has admitted three warnings given to him. He was a casual labour. He was not selected after following the procedure of recruitment. A casual labour is not engaged against a permanent post. He has no right to a post. In case the management is obligated to hold inquiry in respect of every casual labour there will be no end of inquiries. Departmental inquiry is held against a regularly selected employee or regular employees. The workman was a casual labour. The

period of casual labour is treated as on probation. He has admitted in his cross-examination that three warning letters were given to him. The workman was directed to be punctual in his duties but he was not able to improve his conduct, so the management has rightly discontinued him.

The management was duty bound to pay him retrenchment compensation calculated @15 days for every completed year and one month's notice in lieu of pay. The management has not admittedly made payment of retrenchment compensation and pay in lieu of notice. Section 25 F of the I.D. Act, 1947 is attracted for payment of compensation. His services were found not satisfactory, so there is no question of reinstatement. The management should pay him Rs. 20,000 (Rs. Twenty Thousand Only) by way of retrenchment compensation and pay in lieu of notice.

The reference is replied thus :

The action of the management of Central Silk Technological Research Institute, Nation Sericulture Project, Central Silk Board, Dehradun in terminating the services of Sh. Pradeep Prasad Barmola, S/o. Sh. M.N. Barmola, Casual Labour w.e.f. 31-5-1993 is legal and justified. The management should pay the workman Rs. 20,000 (Rs. Twenty Thousand Only) by way of retrenchment compensation and pay in lieu of notice within two months from the date of the publication of the award.

The award is given accordingly.

Date: 31-3-2008

R. N. RAI, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

क्र.अ. 1061.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 7/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/212/94-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1061.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 7/96) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 16-4-2008.

[No. L-42012/212/94-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. RAI I.D. No. 07/1996

Complaint No. 07/2004

IN THE MATTER OF :

Sh. Kali Charan,
S/o. Sh. Amar Singh,
C/o CPWD Mazdoor Union,
E-26 (Old Qtr.), Raja Bazar,
Baba Kharag Singh Marg,
New Delhi.

— Claimant

Versus

The Executive Engineer,
CPWD, G - division,
East Block - 2, Level - II,
R.K. Puram, New Delhi - 66.

— Respondents

AWARD

The Ministry of Labour by its letter No.L-42012/212/94-IR(DU) CENTRAL GOVERNMENT Dt. 27/28-12-1995 has referred the following point for adjudication :

The point runs as hereunder :

"Whether the Executive Engineer, G-Division, CPWD was justified in not regularizing the services of Sh. Kali Charan, Sewerman w.e.f. 4-01-1991? If not, to what relief the workman is entitled."

That Shri Kali Charan workman was engaged as Sewerman under G- Division of the above management on work order w.e.f. 4-1-1991.

The workman applicant has filed claim statement. In the claim statement it has been stated that Shri Kali Charan workman was engaged as Sewerman under 'G' Division of the above management on work order w.e.f. 4-1-1991.

That the above workman is working under the control of Director General Works, CPWD, Narman Bhawan, New Delhi.

That the workman is performing his duties as Sewerman as called by the management as Work Order and the workman is doing the work under the direct supervision of the Junior Engineer, Assistant Engineer and also getting wages directly from the CPWD Management.

That the workman is daily rated workman on work order and directly engaged by the management and has been performing the duties under the direct control of above management and the payments are also made directly by the above management.

That three types of daily rated workmen are performing their duties i.e. (a) Muster Roll, (b) Hand Receipt and (d) Work Order directly under the control of the

management and except the category of workman on work Order as Sewerman, all the other workmen working on daily rated in the categories of Sewerman on Muster Roll and Hand receipt, were getting equal pay for equal work in the pay scale of Rs. 950-1500 as per the policy of the management.

That denial of equal pay to Shri Kali Charan, workman is discriminatory and unlawful.

That the Government of India, Central Public works Department vide their order No. 38/2/87-EC.X, dated 30-9-92 have sanctioned 8982 posts for regularization of daily rated workers in compliance of the orders of Hon'ble Supreme Court of India.

That the management have regularised many Junior persons to the concerned workman on the time scale but he was discriminated after the order of Hon'ble Supreme Court.

That the workman is also not paid equal pay for equal work after the judgement of Hon'ble Supreme Court. That the workman is legally entitled to be regularized and paid wages in the proper time scale.

(c) A "probationers" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a new post he may at any time during the probationary period of three months be reverted to his previous permanent post.

(d) A "badli" is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A "temporary" workman is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period.

(f) A "casual" workman is a workman whose employment is of a casual nature.

(g) An "apprentice" is a learner who is paid an allowance during the period of his training.

* * *

That as per the above Model Standing Orders, the workman acquired the permanent status after completion of 3 months service in the grade.

That the workman Shri Kali Charan has been kept on daily rated on work Order only to deny him the privileges and benefits that of a regular/permanent workman. That non-regularization of services of the concerned workman by the management of CPWD is unjustified as well as illegal.

That the management has not been regularizing the services of the workman with a view to exploit him by denying him the benefits and fruits of regular workman in the time scale which is unfair labour practice under the fifth Schedule of the Industrial Disputes Act, 1947.

That as per Item No. 10 of the Fifth Schedule of I.D. Act dealing with unfair labour practice, the Hon'ble Parliament has disapproved the exploitation of workman while inserting the amendments and the same has been taken effect w.e.f. 21-8-84 as under:

* * *

"To employ workmen as 'badlis' casual or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges. That the above workman is connected with the construction, sanitation work and maintenance of buildings owned by Central Government and comes under the definition of Payments of Wages Act and so is also covered by Industrial Employment (Standing Orders) Act and Rules made thereunder.

That the workman has been performing his duties relating to sanitation works, maintenance of doors and windows and other related works which are of skilled nature.

That according to Model Standing Rules under Industrial Employment Act, a workman having completed 90 days of continuous service deemed to have attained the status of permanent workman and the management has been wrongly denying the facilities to the workman and there by discriminating him amongst the same employments which is nothing than the hostile discrimination against the workman concerned with this dispute.

That there are hundreds of permanent workmen (Sewermen) working in different divisions of CPWD and keeping these concerned workmen on daily rated is discriminatory and denial of equal status and this action of the management is discriminatory and unlawful. That this Hon'ble Tribunal under the Act is within its jurisdiction to classify the workman by grades and set aside the hostile discrimination in the matter of classification by grades of the workman by the above management as per Item No. 7 in the "Third Schedule" under Section 7A of the Industrial Disputes Act, 1947.

That the action of the management in not regularizing the services of the workman from the date of initial employment is illegal as well as unjustified.

That the workman is entitled to be confirmed by way of regularization w.e.f. 4-1-1991.

Management filed written statement taking following preliminary objections:

That the above said claimant have no *locus standi* to file this claim against the respondent-management being there is no industrial dispute between the parties.

That there is no relationship of employer and employee and that of master and servant either existing or otherwise exists between the claimant and the respondent-management i.e. CPWD, 'G' Division.

That there is no industrial dispute arise between the parties and there is no relationship existing between the claimant and the management as an employee and

employer, therefore, the present reference is not maintainable and is liable to be quashed on this short ground and the claim of the claimant is not supported by an affidavit therefore the claim is not maintainable in the eye of law and in the interest of justice at all. That this court has no jurisdiction to entertain such references being the reference made in the present form is not maintainable and is not entertainable, therefore, it is liable to be rejected/ dismissed.

That by virtue of the position of the applicant-claimant and the status of the applicant-claimant as a contractor, he did not answer the description of the word "workman" as defined in clause (s) of Section 2 of the Industrial Disputes Act, 1947. In view of the position of the matter, the application of the applicant-claimant is utterly misconceived and the same deserve to be dismissed outrightly in limine.

That the above said claimant was engaged as a contractor and he was awarded the contract for cleaning of sewerlines on complaint basis and he was never engaged as an employee or a workman on daily wages and he was never designated as a sewerman.

That the above said claimant was engaged as a contractor and he is bound and governed by Chapter III of contracts of C.P.W.D. Manual and the arbitration and litigation cases of Section 36 of the said volume. Therefore, when dispute arises between the parties then he can approach the management to appoint the arbitrator only.

That without prejudice to the above, it is submitted that the present dispute referred by the Government of India to this honourable court/ tribunal for adjudication is not an Industrial Dispute as defined under Section 2(k) of Industrial Disputes Act, 1947 because it is not a case of discharge, dismissal, retrenchment or termination of the services of the claimant. As already submitted above that it is a case of contractship which is not come under the purview of the Industrial Disputes Act, 1947 and the provision of the Industrial Disputes Act, 1947 does not apply in this case. Therefore, the present reference made by the Government in that respect is without jurisdiction and is liable to be quashed outrightly by this honourable court.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

From perusal of the pleadings of the parties the following issues arise for adjudication:

1. Whether the workmen applicant has completed 240 days work during the tenure of his employment and whether there is employer and employee relationship between the management and the workman?

2. Whether the claimant is workman in view of Section 2(s) of the Industrial Disputes Act, 1947?

3. Whether the claimant is entitled to reinstatement/ regularization?

4. Whether the workman applicant is entitled to Equal Pay for Equal Work, to what amount of back wages the workman is entitled?

ISSUE NO. 1

It was submitted from the side of the workman that he was engaged as Sewerman under G - Division of the above management on work order w.e.f. 04-01-1991. He worked under the control of Director General (Works), CPWD, N. Bhawan, New Delhi. The workman has performed his duties as Sewerman as called by the management on work order and he is doing the work under the direct supervision of the Jr. Engineer, Asstt. Engineer and also getting wages directly from the GPWD management. He is a daily rated workman on work order and he was directly engaged by the management and has been performing his duties under the direct control and supervision of the above management and the payments are directly made by the management.

It was further submitted that the management has not followed the constitutional scheme of Equal Pay for Equal Work. The Government of India, CPWD Department vide their order 38/2/87- EC 10, dated 30-09-1992 have sanctioned 8982 posts for regularization of daily rated workers in compliance of the orders of the Hon'ble Supreme Court of India. Many juniors have been regularized. Non-regularization of the services of the workman is arbitrary and illegal.

It was further submitted that the workman has been performing the duties of sanitation, maintenance of buildings owned by the Central Government. It was further submitted that according to the Model Standing Orders after completion of 90 days of continuous service a workman attains the status of permanent workman but the management has been denying the same to the workman.

It was submitted from the side of the management that there is no relation of employer and employee and that of master and servant. There is no industrial dispute between the parties as there is no relation of employer and employee. The reference is not maintainable.

It was further submitted that the claimant worked as a contractor and he did not answer the description of the word "workmen" as defined in clause (s) of Section 2 of the I.D. Act, 1947. He was engaged as a contractor and he was awarded the contract for cleaning of sewerlines on complaint basis.

It transpires from perusal of the complaint that the services of this workman was terminated on 18-01-2003. The workman has filed complaint No. 7 of 2004 for illegal termination of his services. Evidence has been led in the complaint also.

The management has not denied anywhere the working of the workman as Sewerian from 04-01-1991 to 18-01-2003. It is also admitted to the management that the services of this workman were terminated on 18-01-2003 while pendency of the dispute in CGIT - 1 and the workman has filed a complaint also. It has also not denied that the workman is not working under the control and supervision of the Jr. Engineer and Asstt. Engineer. It is also not denied that the workman has not been paid by the management directly.

The workman has specifically stated in his cross examination that he was provided work by the JE and Clerk and he was appointed by the SDO, Sh. Vijay Pat Singh. He was used to be paid through cheque as well as in cash by the SDO.

From perusal of the documents it is proved that the workman has worked under the control and supervision of the JE and he has been made payment directly by the management.

It is settled law that even the contractual workers engaged through contractors for perennial nature of work, becomes the employee of the Principal Employer. In case contract is sham and ruse and in case it is found that a workman is working under control and supervision of the management and his services are integrated to the management and payment to him is being made by the management.

It has been held in (1992) 4 SCC 118, "Regularization-Ad hoc/Temporary Govt. employees - Principles laid down- Those eligible and qualified and continuing in service satisfactorily for long period have a right to be considered for regularization - Long continuance in service gives rise to a presumption about need for a regular post - But mere continuance for one year or so does not in every case raise such a presumption - Govt. should consider feasibility of regularization having regard to the particular circumstances with a positive approach and an empathy for the concerned person."

It has been held in 1997 AIR SCW Page 430 that the industrial adjudicator should decide whether there is valid contract or it is a mere ruse / camouflage and if it is found that the contractor is only a name lender the management should be directed to regularize the workmen. In JT 2003 (1) SC 465 - the Hon'ble Supreme Court has held that industrial adjudication is appropriate remedy for the alleged contract workers. In (2000) 1 SCC 126 - the Hon'ble Supreme Court has held that there are multiple pragmatic approach/factors which should be considered in deciding employer and employee relationship. According to the criteria there should be control and integration. The management has doubtless control over the alleged contractor's men as they work in the establishment of the management. They are integrated to the service of the management. There are no terms and conditions of the contract so there is master and

servant relationship. The creation of contract labour is only sham and camouflage and the employer cannot be relieved of his liabilities.

In Pollock Law of Torts a servant and an independent contractor has been defined as under :—

The distinction between a servant and an independent contractor has been the subject matter of a large volume of case-law from which the text-book writers on torts have attempted to lay down some general tests. For example, in Pollock's Law of Torts, (Pages 62 & 63 of Pollock on Torts, 15th Edn.) the distinction has thus been brought out:

"A master is one who not only prescribes to the workman the end of his work, but directs or at any moment may direct the means also, or, as it has been put, retains the power of controlling the work, a servant is a person subject to the command of his master as to the manner in which he shall do his work.....An independent contractor is one who undertakes to produce a given result but so that in the actual execution of the work is not under the order or control of the person for whom he does it, and may use his own discretion in things not specified beforehand...."

In Salmond's Treatise on the Law of Torts the distinction between a servant and independent contractor has been indicated as under :—

"What then, is the test of this distinction between a servant and an independent contractor? The test is the existence of a right of control over the agent in respect of the manner in which his work is to be done. A servant is an agent who works under the supervision and direction of his employer; an independent contractor is one who is his own master. A servant is a person engaged to obey his employer's orders from time to time; an independent contractor is a person engaged to do certain work, but to exercise his own discretion as to the mode and time of doing it - he is bound by his contract, but not by his employer's orders."

The test regarding independent contractor and intermediaries have been laid down in Hussainabhai, Calicut V. The Alath Factory Thezhilali Union Kozhikode [AIR 1978 SC 1410 (3 Judges)] "the true test may, with brevity, be indicated once again. Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom the workers have immediate or direct relationship as contract is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor.

Myriad devices, half-hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38, 39, 42, 43 and 43-A of the Constitution. The Court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances."

This case law has been affirmed by the Constitution Bench Judgment in Steel Authority of India, in case the security job chokes off, the workmen would be laid off. Such contract is prohibited; it is not a contract for a given result.

My attention was drawn to another Constitution Bench Judgment - Steel Authority of India. It has been held as under :-

"Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workmen. But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment, a question may arise whether the contract is a mere camouflage as in Hussainabhai Calicut's case (supra) and in Indian Petrochemicals Corporation's case (supra) etc; if the answer is in the affirmative, the workmen will be in fact an employee of the principal employer, but if the answer is in the negative, the workmen will be a contract labourer."

In the instant case the workmen have not been hired in connection with the work of a contractor but they have been hired by the contractor for the work of the respondents. So in the instant case there is contract of service between the principal employer and the workmen.

The Constitution Bench Judgment of Steel Authority of India is squarely applicable in the instant case. In JT 2001 (7) SC 268 it has been held that "121 (5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of Contract Labour or otherwise, in an industrial dispute brought IOC before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance with various beneficial legislations so as to deprive the workers of the benefit thereof. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the establishment concerned."

It has been held in this case that whether there is prohibition of contract labour or otherwise the industrial adjudicator will have to consider the question and in case the contract appears ruse and camouflage to evade compliance with various beneficial legislations the so-called contract labour will have to be treated as the employee of the principal employer and he shall be directed to regularize the services of the contract workers.

Engagement of contract workers for perennial and regular nature of job is prohibited. The security function is a perennial nature of job. So long as the respondents exist, there would be need of security for them, as the work is existing, continuous and perennial in nature for such work contract workers cannot be employed.

According to well reorganization definition of contract it is an agreement for a given result. The result should be visible. Contract labourers can be engaged for the work of contractor only and not for the work of any establishment. In the present case the work is of the establishment and not of the contractor. The term supply of labour by a contractor is against human dignity. No one can be a supplier of human labour to any establishment. It is the duty of State to give employment to citizen and not of the contractors. Contractors cannot supply labour to any establishment.

It is admitted by the management that the workman was engaged on 04-01-1991 and he has worked continuously up to 2004. During the pendency of the reference the management illegally removed the workman in 2004 violating section 33 of the ID Act, 1947.

The management witness has admitted that by Circular letter dated 15-05-1993 the engagement on work order basis, hand receipt basis and contract basis was prohibited by the Government. The workman has worked under the control and supervision of the management. MW 1 has not denied the continuous working of the workman from 1991 to 2004. The workman is not an independent contractor. He worked as per direction of the management authorities, so there is employer and employee between the management and the workman and the workman has completed 240 days in every year of his employment.

This issue is decided accordingly.

ISSUE NO. 2
It was submitted from the side of the management that the workmen are independent contractors.

My attention was drawn to the judgment of Hon'ble Delhi High Court WP(C) No. 7032 of 2003. The Hon'ble Court has placed the reliance on order dated 20-03-1993. The workmen worked under the direction of the Engineer Incharge. In the above circular the management directed the authorities of CPWD to send the list of such daily rated muster roll workers engaged on hand receipt or work order or any other basis defining the existing Government

instructions ensuring *inter alia* termination of services of all such workers who have not completed 240 days services in two consecutive years. The probable demand requiring appointment of such workers may also be intimated to this Directorate. As such in the circular of 1993 a complete ban was imposed on engagement of workmen on work order or hand receipt and it was also directed that the list of those workers who have completed 240 days of services should also be intimated to the directorate. The Hon'ble High Court held that the workers engaged on work order basis shall also be daily rated workers and provisions of Section 25-F of the ID Act, 1947 would be attracted.

The claimant in this case is workman in view of Section 2(s) of the ID Act, 1947.

This issue is decided accordingly.

ISSUE NO. 3

It was submitted from the side of the management that the workmen were engaged as contractors for cleaning the sewerlines. Even if it is found that there is direct relation of employer and employee the workmen may be given compensation in lieu of reinstatement.

It was submitted from the side of the workman that compensation is payable in cases where an undertaking has become sick or it has been closed or it is in economic loss. It has not been established that the bank is in economic loss and it is a sick industry. My attention was drawn by the Ld. Counsel of the workman to 2000 LLR 523 State of UP and Rajender Singh. The Hon'ble Apex Court ordered for reinstatement with full back wages as the services of the daily wage cleaner who worked for 4 years was dispensed with without following the procedure for retrenchment. In the instant case also no retrenchment compensation has been paid. This case law squarely covers the instant case. It has been held in 1978 Lab IC 1668 that in case service of a workman is terminated illegally the normal rule is to reinstate him with full back wages. My attention was further drawn to AIR 2002 SC 1313. The Hon'ble Supreme Court has held that daily wage even if serving for a short period should be reinstated.

It was submitted from the side of the workman that in the instant case sections 25 F, G of the ID Act are attracted. In section 25 of the ID Act it has been provided that if a workman has performed 240 days work and if the work is of continuous and regular nature he should be given pay in lieu of notice and retrenchment compensation.

It has been held by the Hon'ble Apex Court that there is no cessation of service in case provisions of section 25 F are not complied. In the instant case no compensation has been paid to the workman.

In case a workman has worked for 240 days in a year and the work is of continuous and regular nature he should be paid retrenchment compensation. In case retrenchment

compensation is not paid section 25F of the ID Act is attracted. There is no cessation of his services. He is deemed continued in service in the eye of law. In case there is breach of section 25F the service is continued and reinstatement follows as a natural consequence.

ID Act, 1947 has been enacted to safeguard the interest of the workmen belonging to poor segment of society. It appears that legislature wanted that such workmen should not be harassed unnecessarily so Section 25 F, U, T and Clause 10 of Vth Schedule have been enacted. The objects and reasons of ID Act, 1947 show that the respondent management should not be permitted to indulge in any unfair labour practice. The workmen should not be engaged for years and then they should be removed all of a sudden. There is provision of retrenchment compensation for his removal. Retrenchment compensation is for compensating him otherwise so that he can survive long interregnum of unemployment. In the instant case no retrenchment compensation has been paid.

It was submitted from the side of the management that the Hon'ble Apex Court in 2006 (4) Scale has put down a complete ban on regularization and reinstatement. The Hon'ble Apex Court has held that employment can only be made on the basis of procedure established in that behalf envisaged by the Constitution. Equality of opportunity is the hallmark and the Constitution enshrines affirmative action to ensure that unequals are not treated equals. So public employment should be in terms of constitutional scheme.

It was further submitted that the Constitution Bench Judgment has afforded a right according to which the government is not precluded from making temporary appointments or engaging workers on daily wages.

The government has got no license to make always appointment of daily wagers and to continue them for life time. Fixed term tenure appointments and temporary appointments cannot be the rule of public employment. At the time of making temporary appointments Articles 14, 16, 21, 23, 226 and 309 are infringed. There is no constitutional mandate that the government is at liberty to go on giving fixed term appointments for the entire tenure of service of an employee.

The Government or Public Sector units cannot continue incessantly to give temporary and fixed term appointments again and again. Since fixed term appointments and temporary appointments are not governed by any constitutional scheme, such discrimination will amount to vicious discretion. The Government or Public Sector unit will go on resorting to the method of pick and choose policy and give temporary and ad hoc appointments to their favorites and thus the principles of equality enshrined in the constitution will be given a go bye. Such is not the intent of the Hon'ble Apex

Court. However, in this judgment the provisions of the ID Act governing the services of the workman have not been declared unconstitutional. Reinstatement is the remedy provided in the ID Act for breach of several provisions enumerated therein or for breach of service rules provided in various labour welfare legislations.

A three Judges bench of the Hon'ble Apex Court has held in 1993 - II - LLJ that termination of services affects the livelihood of not only of the employee but also of the dependents. So in case of illegal termination of service the workman should be reinstated.

This workman was engaged as casual labour w.e.f. 4-1-1991 and when he raised the dispute his services were illegally terminated by the management in 2003. The workman has worked continuously from 1991 to 2003.

It has been held in Constitution Bench Judgment in Uma Devi's case that in case a temporary employee has worked for 10 years even temporarily and not without the orders of the Court the government should consider the feasibility of regularization. This workman has admittedly worked from 4-1-1991 and up to 2004, so he has rendered continuous service for 13 years. The Hon'ble Apex Court has directed for regularization of the services of the workman who have completed 10 years of service. This workman worked continuously for 13 years thereafter his services have been terminated, so this workman is entitled to reinstatement and regularization.

This issue is decided accordingly.

ISSUE NO. 4

It was submitted from the side of the workman that in view of 1966 LLJ 134, AIR 1991 page 173 and in view of Directive Principles of State Policy has confirmed in Article 30(d) of the Constitution a casual workman cannot be denied the same salary of Class -IV employees when they performed the same duties on regular basis. There should be equal pay for equal work and it should be treated as a fundamental right in service jurisprudence.

It has been held in (2003) 6 SCC123 as under:

"The principle of 'equal pay for equal work' is not always easy to apply. There are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. It is a concept which requires for its applicability complete and wholesale identity between a group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales. The problem about equal pay cannot always be translated into a mathematical formula.

It is obvious from the judgment that the principles of equal pay for equal work cannot be applied everywhere. A daily wager holds no post. Scale of

pay is attached to a definite post. This workman was not holding any definite post, so he cannot be compared with the regular and permanent staff for equal pay and allowances."

It has been further held in (2003) 1 SCC 250 as under:

"Equal pay for equal work - applicability of the principle of, held, depends not only on the nature or volume of work but also on the qualitative difference in reliability and responsibilities as well. Even in case of same functions, responsibilities do make a real and substantial difference - It is for the claimant of parity to substantiate a clear-cut basis of equivalence and a resultant hostile discrimination - In absence of requisite substantiating material, High Court erred in granting the NMR workers/daily wagers/ casual workers parity in pay with the regularly employed staff merely on presumption of equality of the nature of work - However, such workers, held, entitled to payment of prescribed minimum wages."

It has been held in this case that equal pay for equal work would depend upon not only the nature or the volume of work but also on the qualitative difference as regards reliability and responsibilities though the functions may be the same.

The workman was engaged on work order basis. He was not a regular employee, so he is not entitled to Equal Pay For Equal Work.

It has been held in the other issues that the workman has worked for 240 days every year during the entire period of his engagement. His services were illegally terminated on 18-1-2003 while the reference was pending. The workman is a manual worker. He must be doing some sort of work off and on. In the circumstances the workman is entitled to 50% back wages from 18-1-2003.

This issue is decided accordingly.

The reference is replied thus:

The Executive Engineer, G - Division, CPWD was not justified in not regularizing the services of Sh. Kali Charan, Sewerman. This workman is entitled to reinstatement along with 50% back wages and regularization of his services since the date of termination of his services i.e. 18-1-2003. The management should reinstate the workman w.e.f. 18-1-2003 and pay him 50% back wages from 18-1-2003 and regularize his services w.e.f. 18-1-2003 within two months from the date of the publication of the award. Complaint No. 07/2004 is decided accordingly.

The award is given accordingly.

Date: 31-3-2008

R. N. RAI, Presiding Officer

नई दिल्ली, 16 अप्रैल, 2008

AWARD

का.आ. 1062.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुपरिन्टेन्डेंट ऑफ पोस्ट ऑफिसों के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 57/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-40012/44/2007-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th April, 2008

S.O. 1062.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 57/2007) Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Superintendent of Post Offices and their workman, which was received by the Central Government on 16-04-2008.

[No. L-40012/44/2007-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI

Thursday, the 31st January, 2008

Present : K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE No. 57/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management and their workmen)

BETWEEN

Sri J. Shanmugam : Petitioner/I Party

AND

The Superintendent of Post Offices : Respondent/
D/o Post, Dharmapuri Division II Party
Dharmapuri-636701.

APPEARANCE:

For the Petitioner : Mis. R. Thamarai Selvan &
O. Raman

For the Management : None

The Central Government, Ministry of Labour vide its Order No. L-40012/44/2007-IR(DU) dated 8-10-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Superintendent of Post Offices, Dharmapuri in terminating the service of their workman Sri J. Shanmugham w.e.f. 17-1-2000 is legal and justified. If not, to what relief the workman entitled to?”

2. After the receipt of the Industrial Dispute, this Tribunal has numbered it as ID 57/2007 and issued notices to both sides. The petitioner appeared through an advocate and filed Claim Statement. Though one Asstt. Superintendent of Post Offices represented the Respondent for the first two hearings, he was not appeared before this Tribunal for subsequent hearings nor any advocate appeared for the Respondent. Hence, the Respondent called absent and set ex-parte.

3. The allegation in the Claim Statement of the petitioner are briefly as follows:

The petitioner was working as Branch Post Master in Mampatti Village in Dharmapuri District. And he was working in the Respondent Management for 23 years. Based on a false complaint, the Respondent issued charge memos dated 30-9-1999/5-10-1999 for which an enquiry was conducted. The Enquiry Officer has held that the petitioner has admitted the charges and concluded the enquiry. On the basis of the enquiry report, the Disciplinary Authority imposed the punishment of dismissal by its order-dated 17-1-2000. For the same occurrence, a criminal proceedings for enquiry in CC 265/2000 was conducted before the Judicial Magistrate, Harur and after elaborate trial, the Judicial Magistrate has acquitted the petitioner from the criminal charges. After that, the petitioner has given a representation to the Respondent Authority but with no avail. Hence, he has raised the dispute before labour authorities and the matter was referred to this Tribunal after failure of conciliation. Though, three articles of charges were leveled against the petitioner, all the charges have not been proved before the enquiry. The first charge levelled against the petitioner is that he while working as Branch Post Master, Mampatti, a cash of amount Rs. 811.75 was short on 14-12-1998. The second charge levelled against the petitioner is that the petitioner failed to bring into account Rs. 600 alongwith penalty Rs. 7 accepted as deposit for the month from Nov. 1997 to Dec. 1997 in respect of R.D. A/c No. 277910 of one Mr. K.K. Ramamoorthi. The third charge framed against the petitioner is that he failed to bring into account a sum of Rs. 14 which he accepted towards RD Deposit from Dec. 1997 to Nov. 1998 in respect of one Mr. Pomusamy. The petitioner is ignorant and he

did not know that he is entitled to have an assistance of a co-employee and he is ignorant of the domestic enquiry proceedings and the enquiry proceedings were also recorded in English in which the petitioner is not well conversant. On the directions of the Enquiry Officer, the petitioner affixed his signature in the statement recorded by the Enquiry Officer without knowing the implications and with a fond hope to get back the employment. Therefore, he is only a mere signatory to the proceedings and there is no enquiry in reality in the domestic enquiry. Further, no evidence placed in the enquiry to show that there was shortage as alleged by the Respondent. The enquiry was conducted in utter violation of principles of natural justice. Further, the punishment of dismissal imposed on the petitioner is grossly disproportionate to the charges. Hence, this Tribunal has got every power to interfere with the quantum of punishment under Section 11A of the I.D. Act. For all these reasons, the petitioner prays to set aside the order of dismissal imposed by the Respondent Management and consequently requests this Tribunal to reinstate him with full backwages, continuity of service and other attendant benefits.

4. As I have already pointed out, neither the Respondent nor any advocate appeared for the Respondent, the Respondent was called absent and set ex-parte.

With this the point for determination are:

(a) Whether the action of the Respondent Management in terminating the services of the petitioner w.e.f. 17-1-2000 is legal and justified?

(ii) To what relief the petitioner is entitled to?

Point No. 1

5. Though the Respondent was served with notice. In this case he has not appeared and filed any counter statement. The petitioner alleged that he was charge sheeted for three charges and all the charges have not been proved before the domestic enquiry. Further, he alleged that the domestic enquiry was not conducted in a proper manner and principles of natural justice has not been followed. He alleged as per instructions of the Enquiry Officer, he has signed the statement recorded by the Enquiry Officer without knowing anything from the statement. It is his further allegation that the domestic enquiry was recorded in English in which he is not well conversant. The petitioner further contended for the same alleged occurrence, a criminal case was taken on file on the file of the Judicial Magistrate, Harur and after elaborate enquiry, he was acquitted in the criminal proceedings. The petitioner further contended that he has given a representation to reconsider the punishment imposed on him in view of the acquittal by the Criminal Court, the Respondent has not considered his representation and therefore he has raised the dispute before the labour authorities. As I already pointed out the

Respondent has not appeared before this Tribunal to deny the allegations made by the petitioner, since the Respondent remained absent and since the Respondent has not made any counter allegation, I find the petitioner's case is to be accepted, as such I find this point in favour of the petitioner.

Point No. 2

6. In view of my findings that the action of the Respondent Management in terminating the services of the petitioner is not legal and justified, I find he is entitled to relief of reinstatement. With regard to backwages, he is entitled to the backwages. With regard to continuity of service and other attendant benefits, the Respondent is directed to give continuity of service.

7. Thus, the reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 31st January, 2008)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:-

For the I Party/Petitioner	None
For the II Party/Management	None

Documents Marked :-

Ex. No.	Date	Description
On the petitioner's side		
Ex. No.	Date	Description
From the Management side:		
Ex. No.	Date	Description

नई दिल्ली, 16 अप्रैल, 2008

का.अ. 1063.—औद्योगिक विवाद अधिनियम, 1947 (1947

का 14) को धारा 17 के अन्तर्गत में, केन्द्रीय सरकार एयरपोर्ट ऑथोरिटी ऑफ इंडिया (एनएटी) चेन्नई के प्रबंधकों के संबद्ध निदेशकों और उनके कर्मचारियों के बीच अनुबंध में विवाद औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अस न्यायालय, चेन्नई के पंचाट (संख्या संख्या आईडी सं-100/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-170/2/2005-आई और (एफ)]
एन. एस. बोर, डेस्क अधिकारी
New Delhi, the 16th April, 2008

8.O. 1063.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref No. I.D. No. 100/2005 of the Cent. Govt. Industrial Tribunal at Labour Court, Chennai as shown in the Annexure, in the industrial

dispute between the management of Airport Authority of India (NAD)-Chennai and their workman, received by the Central Government on 16-04-2008.

[No-L-11012/2/2005-IR(M)]
N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Wednesday, the 21st November, 2007

Present : K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE No. 100/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management and their workmen)

BETWEEN

A Venkatesan : Petitioner/I Party
120/1, Vembuli Amman Koil Street
Madipakkam
Chennai-600091

AND

The Regional Executive Director : Respondent/II Party
Airport Authority of India (NAD)
Chennai.

APPEARANCE

For the Petitioner M/s. K.M. Ramesh

For the Management M/s. Sree Associates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-11012/2/2005/IR(M) dated 25-7-2005 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

- (i) Whether the demand of Sri A. Venkatesan for reemployment by the management of Airport Authority of India (NAD), Chennai is justified or not? If not, to what relief is he entitled to ?

2 After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 100 of 2005 and issued notices to both sides. Both sides entered appearance through their advocates and filed their claim and counter statement respectively.

3. The allegation in the claim statement are briefly as follows:

The petitioner joined the services of the Respondent/ Management on 14-7-1995 as contract workman Driver. Initially he was appointed through a Contractor by name Sri P.V. Rajagopalan and he was in service continuously upto 16-1-1996. Subsequently, another contractor by name, Sri P. Thangavel employed the petitioner as a driver in the maintenance and project department of the Respondent. The petitioner worked continuously without any break, whatsoever, since the date of joining even though contractors have been changing every year or so. The work performed by the petitioner is perennial in nature and the so-called contract between the Respondent and the respective contractors are mere paper arrangement. The work performed by the petitioner was directly controlled and supervised by the Officers of the Respondent/ Management and the so called contractors have no role to play except lending their names as contractors. Even the payments are made directly by the Respondent. Thus, the so-called contract between Respondent and the contractor are only pretence, nominal and sham and a make believe arrangement. The contract is a mere ruse and camouflage to evade compliance of various beneficial legislations and in the matter of payment of wages. The Respondent is adopting the device of contract in order to deny the petitioner the status of regular workman of the Respondent and the benefits available to the workmen directly employed by him. Therefore, he has filed a Writ Petition before the Hon'ble High Court of Madras in WP No. 19442/97 to absorb him and regularize his services from the date of his initial appointment. While the matter was pending before the High Court, the Respondent had terminated the services of the petitioner without following the mandatory requirement of Section 25(F) of the Industrial Disputes Act and the WP was disposed of by an order dated 27-8-2003 giving liberty to the petitioner to approach the forum under ID Act. Hence, the petitioner raised a dispute before the labour authorities and since the conciliation was failed, the matter was referred to this Tribunal for adjudication. By terminating the services, the Respondent/Management has contravened Section 25(F), 25(G) of the Industrial Disputes Act. While the persons by name Sri Loganathan, Meghanathan and Prabhakaran who have joined in the services of the Respondent as contract labour by the Respondent/ Management as direct employees as Drivers and Helpers respectively, the Respondent/Management have already regularized the persons who are engaged subsequent to the petitioner as illegal and is against the provisions of Section 25(G). Therefore, the action of the Respondent/ Management in removing him from the services is totally illegal, arbitrary and unjustified. Hence, for all these reasons, he prays this Tribunal to order to reinstate him in service with back-wages, with continuity of service and with all other consequential benefits.

4. As against this, the Respondent in his counter statement contended that the Airports Authority of India in discharging its duties have conceived the idea of modernization of Air Traffic Services at various Airports all over India and specific projects have been designed for modernization of the various Airports including the infrastructures. One among such project has been designed for Chennai Airport. In the year 1994, Airports Authority of India wanted to construct a new Air Traffic Services Complex in Chennai Airport at a cost of Rs. 12 crores. To monitor the project implementation, a separate team was formed by the Airports Authority of India, Corporate Office and the Project team started monitoring the progress of the project on day-to-day basis. The team on assuming charge of project monitoring felt the necessity of the requirement of some ministerial staff like Steno-cum-Typist, Engg.-Office-Assistant, Driver (LMV), Peon and Draftsman. The Headquarters of the Respondent/Management also approved the expenditure for this temporary engagement and permitted the Project Manager to call for quotation from different agencies for the supply of required manpower. After thorough scrutiny of the quotations, the least quotation was accepted. Accordingly, the contract was awarded to Sri R.V. Rajagopalan on 14-7-1995. The petitioner was one among the 5 manpower supplied by the contractor. The petitioner worked as a Driver for the project team. It is an independent team not involving and not functioning under this Respondent/Management. It was formed for a specific task of project implementation of Air Traffic Service Complex at Chennai. Hence, neither the contractor nor the petitioner had any contract or relationship with this Respondent. On expiry of 90 days, another quotation was called and Sri R.V. Rajagopalan who is the least bidder was awarded the contract. Subsequently, one Sri P. Thangavel became the successful bidder and the contract was awarded to him and the said Thangavel was awarded the contract in the subsequent bids and in the next bid one Sri Sekar became the successful bidder and the contract was awarded to him and lastly the project was completed on 12-11-2001. The contract for supply of various contingency manpower continued till the project was completed through various contractors. The categories mentioned in the contract are not in permanent requirement. The contractor supplied the required manpower only for 90 days at a time. The Respondent is not aware of engagement of any individual particularly. The petitioner was not at all employed by the Respondent. The petitioner has not been engaged directly by the Respondent/Management at any point of time. The project monitoring team not being a regular department of the Airports Authority of India and the team has to be dismantled as and when the project is over. Permanent ministerial establishment cannot be created for a temporary period. When the third contractor viz. Sri Sekar became the successful contractor, the petitioner worked for only 4 days under him and he was disengaged by the contractor for the purpose of this contract for the reasons best known to them.

In all these engagement, a lumpsum amount contract consideration was paid every month to the contractor by the project monitoring team for all the services rendered by the contractor. The petitioner was terminated by the contractor at his discretion, in the year 1998 though the contract continued upto 2001 till the completion of the project. All payments were made only to contractors. Further, the work performed by the petitioner is neither permanent nor perennial in nature. The cases of Sri Loganathan, Meghanathan and Prabhakaran mentioned by the petitioner are entirely different as they had been engaged as casual labour in Airports Authority of India against the permanent/regular vacancy. Their services were regularized as mandatory in the laws whereas the petitioner's engagement was only as contract labour and the contract for a subsequent period cannot be considered for regularization. Since the petitioner was not employed by the Respondent, the question of his termination does not arise. The engagement of contract staff is only for the project period and as and when the project was over, the project monitoring team was dismantled and they return to their original position. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again, the petitioner in his rejoinder statement alleged, it is false to allege that the petitioner was engaged for a particular project, is far from truth. At no stretch of imagination, it can be, said to be of temporary nature. The log book/trip sheet maintained for the jeep owned by the Respondent and which was driven by the petitioner would prove that the petitioner was not engaged for the project work but directly by the Respondent/Management. All payments were made directly to the petitioner by the Respondent. The three co-workmen mentioned in the claim statement were working along with the petitioner under the alleged contractors and performed the work of Driver like that of petitioner. The action of the Respondent/Management in denying the same privilege to the petitioner is arbitrary, illegal, hence, he prays an award may be passed in his favour.

The points for determination are:

(1) Whether the demand of the petitioner for re-employment by the Respondent Management is justified?

(2) To what relief is he entitled to?

6. This case is raised by the petitioner to re-employ him in the Respondent Management with backwages, continuity of service and all other attendant and consequential benefits. The case of the petitioner is that he joined the services of Respondent Management on 14-7-1995 as a contract workman (Driver). Though the contractors were changed, he was continuously working

without any break and the nature of work he has done is perennial in nature. He further alleged that though it is alleged that he was a contract labour, the so called contract between the Respondent Management and the alleged contractors are mere paper arrangements and the contractors have no role to play except lending their name as contractors. Even the payment of wages are paid directly to him by the Respondent Management and the so called contractors have never turned up to the work spot and it is only the officials of the Respondent Management who extract work from the petitioner directly and therefore the so called contract between the Respondent Management and the contractors are only a pretence, nominal and sham and a make believe arrangement. Since the Respondent Management is adopting this device of contract in order to deny the status of a regular workman to the petitioner, the petitioner has filed a Writ Petition in Hon'ble High Court in W.P. No. 19442 of 1997 praying the Respondent Management to absorb him and to regularize his service from the date of his initial appointment. But to his surprise during the pendency of the the Writ Petition in February, 1998, the Respondent has terminated the services of the petitioner without complying with the mandatory requirements of Section 25F of the Industrial Disputes Act. Subsequently, the Writ Petition was disposed off by order dated 27-8-2003 giving liberty to him to approach the forum created under the Industrial Disputes Act. Therefore, he has raised the dispute and it was referred to this Tribunal.

7. But, as against this, the Respondent contended there is no relationship of Master and Servant between the petitioner and the Respondent Management. While modernization of the Air Traffic Services at various airports all over India, the Airports Authority of India has sanctioned specific projects for modernization for Chennai Airport and specific funds have been allotted for the specific project and time schedule has been framed for commissioning and completion of the project. Similarly, in the year 1994, Airports Authority of India wanted to construct a new Air Traffic Service complex in Chennai at a cost of Rs. 18.00 crores for which tenders were floated and M/s. Hindustan Steel Construction Ltd., a Public Sector Undertaking was the successful bidder for the project construction. Further to monitor the project implementation, a separate team was formed by Airports Authority of India, Corporate Office which required some ministerial staff like Steno-cum-Typist, Engg.-Office-Asstt. Driver, Peon and Draftsman and furthermore the Airports Authority of India approved the expenditure for this temporary engagement to be met out of the contingency funds for the project and the Project Manager called for quotation from different agencies for supply of required manpower. Accordingly, the contract was awarded to one Sri. R.V. Rajagopalan on

14-7-1995. Subsequently, it was extended on two occasions and in one occasion, one Sri. P. Thangavel became successful bidder and the contract was awarded to him on 9-1-1996 and he was successful bidder for seven periods. Subsequently, one Sri S. Sekar became the successful bidder and he was awarded the contract during 1998. At last the project was completed on 12-11-2001. None of the categories mentioned in the contract was a permanent requirement constantly throughout the period of the project and all these categories are intermittent. The contract entered into by the Project Manager team with various parties for various activities has come to an end when the project was completed. The petitioner was not at all employed by the Respondent Management and he has not been engaged directly by the Respondent Management at any point of time. Since the Project Monitoring Team not being a regular department of Airports Authority of India, the team has to be dismantled as and when the project was over, permanent ministerial establishment cannot be created for the temporary period. The petitioner's services are disengaged by one of the contractors and this Respondent has nothing to do for the disengagement of contract labour by the contractor concerned. The petitioner was worked under contractor, Sri S. Sekar only for 4 days during the contract and the said contractor disengaged him for reasons best known to him and the petitioner. Since the petitioner was engaged by the contractor for a specific period, there is no question of appointing the petitioner in regular service or terminating him from the service.

8. Since the petitioner alleged that has received wages only from the Respondent and since his contention is that only the Officers of the Respondent has given the work and the so called contractors have not given any instructions for the day to day work, he has to establish these facts with satisfactory evidence. In this case, in order to establish his contentions, the petitioner produced 5 documents and examined himself as WW2. The first 2 documents viz. W1 and W2 are the petition filed by him before the Asstt. Labour Commissioner in 2005 and the reply filed by the Respondent Management for the petition. Ex. W3 are the copy of the trip sheets of the jeep of the Respondent Management and with registration number TN 22A 7282 from the year 1995-1997. Ex W4 is the logbook for the year 1997 for the jeep TN 22 A 6883. Ex W5 is the copy of the order engaging Sri Loganathan on casual basis passed by the Respondent. As against this, on this the side of the Respondent, one Sri K. Gunasekaran, Dy. General Manager (Civil Engg. Department) of Respondent Management was examined as MW1 and 31 documents were marked. The Respondent's documents are the sanction order given by the headquarters of the Respondent Management for expenditure for engaging ministerial staff for the project work and also the letters of

correspondence between the contractor and the Respondent Management for appointing the contractor and also for renewing their contract. Out of the 31 documents, the petitioner produced Ex. M30, the Technical Sanction and also the Measurement Book of the said project work. On behalf of the Respondent, it is contended at not point of time, the petitioner was engaged by the Respondent Management directly. The contractor alone has paid the wages for the petitioner for the work he has done. No supervision was done by the Respondent Management and it is only the Contractor who has supplied the manpower for the temporary project work.

9. In this case though the petitioner has produced the logbook and trip sheets but on production of these documents it cannot be said that the petitioner was engaged by the Respondent Management directly. On the other hand, the Measurement Book produced the Respondent Management squarely shows that on each period the Respondent authority has sanctioned the amount for the contract work done by the contract labourers. Though the petitioner alleged that wages were paid by the Respondent Management directly, he has not produced a single document to show that wages were received by him from the Respondent directly. Further, he has not produced any document to show that he has been engaged by Respondent Management directly or appointed as Driver under the Respondent Management. Though, the learned counsel for the petitioner placed much reliance on the copies of trip sheets and copy of the logbook produced by the petitioner, it cannot be said that by these documents, the petitioner has established that he has been engaged by the Respondent Management directly because every Government vehicle must have the trip sheets and logbook for the maintenance of the Government vehicle. The Driver of the vehicle is to maintain this logbook and to sign in the trip sheets for using the vehicle by Govt. officials. Though, the petitioner alleged that he is a Driver of the Govt. vehicle, he has not established that he has been appointed by the Respondent Management directly. On the other hand, the Respondent has established before this forum that they have floated tender to supply manpower including the Driver for the temporary project work and the project has been closed as per schedule and the contract for supply of manpower has already been closed. When such is the case, the Respondent is to establish that it is only the Respondent who has engaged the petitioner directly and the contract is only sham and nominal for the purpose of denying his legal rights. But in this case, the petitioner has not established this fact with any satisfactory evidence. The learned counsel for the petitioner further contended, one S/Shri Loganathan, Meghanathan, & Prabhakaran who have in service as contract labour are alongwith the petitioner have been absorbed by the Respondent

Management as regular employees as Driver and Helpers respectively and some of the persons who are engaged subsequent to the engagement of the petitioner have all been regularized in service and they are still in service and thus the Respondent Management has contravened Section 25-G of the Industrial Disputes Act. But on the other hand, it is the contention of the Respondent Management that the said persons viz. S/Shri Loganathan, Meghanathan & Prabhakaran are employed as Casual Labourers under the Respondent Management and they have been absorbed in the regular vacancies and it is contended, that the petitioner has never worked as Casual Labourer under the Respondent Management, he has worked only as a contract labour under the contractors and under such circumstances, the appointment of those persons cannot be compared with the petitioner. I find much force in the contention of the learned counsel for Respondent. Further, the Respondent has also produced documents, Ex. M27, Ex. M28 & Ex. M29, which are the particulars given by the Respondent Management with regard to employment of S/Shri Prabhakaran, Meghanathan as Casual Labourers on daily wage basis. Therefore, in this case since the petitioner has not established that the contract between the Respondent Management and the contractor are sham and nominal and since he has not established that he was under the control of the Respondent Management directly, I cannot accept the contention of the petitioner that the contract was sham and nominal document and it was taken by the Respondent only to refuse his legal rights. The learned counsel for the Respondent has placed reliance on the judgement of the Supreme Court, SECRETARY OF STATE OF KARNATAKA AND OTHERS VS. UMADEVI, 2006, 4 SCC, PAGE 1 and argued "In that case, the Supreme Court has clearly stated the status of temporary employee do not have right to regular or permanent public employment and further held temporary, contractual, casual, adhoc or daily-wage public employment must be deemed to be accepted by the employee concerned fully knowing the nature of it and the consequences flowing from it. Further, he argued that the Supreme Court in recent judgement in 2007, 1, SCC, PAGE 408, INDIAN DRUGS & PHARMACEUTICALS LTD. VS. WORKMAN, IDPL LTD. and argued that the Supreme Court in that case has held "the Court cannot create a post whether non-existing nor issue direction to absorb or regularize temporary employment nor continue them in service nor pay their salary of regular employment as these are purely executive or legislative functions and it further held such questions cannot be decided in Court on basis of emotions and sympathies but must be decided on legal principles". In this case since it is established that the establishment is only a temporary establishment and since the petitioner was engaged as a contract labour in a project work, the Respondent Management cannot absorb the petitioner in

any regular vacancy and the Respondent Management has got separate Recruitment Rules (RR) and if any vacancy arises, it should be done according to the rules framed under RR and as such the petitioner cannot be employed in the Respondent Management. In this case the petitioner has not established that he has been appointed by the Respondent Management in any one of the regular vacancy temporarily and he has not established the fact of the date of his engagement he has been under the direct control of the Respondent Management and furthermore he has not established the fact with any satisfactory evidence that the contract entered into between the Respondent Management and the contractor are sham and nominal. As such, I find this point against the petitioner.

Point No. 2

The next point to be decided in this case is to what relief the petitioner is entitled to?

10. In view of my foregoing findings that the petitioner is not entitled for reemployment, I find that the petitioner is not entitled to any relief in this dispute.

11. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st Nov., 2007)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Petitioner WWI Sri A. Venkatesan

For the II Party/Management MWI Sri K. Gunasekaran

Documents Marked :

On the petitioner's side

Ex. No.	Date	Description
Ex. W1	10-1-2005	Petition filed by the first party before the Asstt. Labour Commissioner (Central), Chennai
Ex. W2	4-8-2005	Reply filed by the first party before the Asstt. Labour Commissioner (Central), Chennai
Ex. W3	-	Trip Sheets for Mahindra Jeep TN-22-A-7282
Ex. W4	-	Log Book of the year 1997 for Jeep (Vehicle) No. TN-22-6883
Ex. W5	7-9-1999	Order engaging M. Loganathan on casual basis

For the II Party/Management :

Ex. No.	Date	Description
M1	14-12-1994	Sanction letter in Ref. NAA/MAS/MOD/1/ENCC(C)
M2	17-4-1995	Letter NAA/MAS/PROJECT/EE(C)/95
M3	26-4-1995	Letter in Ref. HE/9/NAA3/411
M4	13-6-1995	Office Note Ref. AAI(NAD)/Engg./Proj/EE(C)/Man power
M5	14-7-1995	Letter in No. AAI(NAD)/MAS/EE(C)/PROJ/S-5/95/1 from the Respondent
M6	14-9-1995	Letter in AAI(NAD)/MAS/PROJ/EE(C)/MANP/S-5/17-119
M7	15-9-1995	Letter in AAI(NAD)/MAS/(MOD)/WORKS/ENGG(C)/1316
M8 & M9	4-10-1995	Office Note No. AAI(NAD)/MAS/PROJ/EE(C)/MANP/S-6/95/1
M10	13-1-1996	Letter No. AAI(NAD)/MAS/EE(C)/PROJ/S-6/96
M11	8-1-1996	Letter No. AAI(NAD)/MAS/PROJ/EE(C)/MANP/S-7/95
M12	9-1-1996	Letter No. AAI(NAD)/MAS/EE(C)/PROJ/S-7/96/160
M13	16-7-1996	Letter No. AAI(NAD)/MAS/EE(C)/PROJ/MANP/S-13
M14	17-10-1996	Letter No. AAI(NAD)/MAS(MOD)/EE(C)-PROJ/MANP/S-14/510
M15	15-1-1997	Letter No. AAI(NAD)/MAS/EE(C)/MANP/S-16/609
M16	27-3-1997	Letter No. AAI(NAD)/MAS/EE(C)/MANP/S-17/730
M17	01-4-1997	Letter No. AAI(NAD)/MAS/EE(C)/MANP/S-17/735
M18	15-4-1997	Letter No. AAI(NAD)/MAS/EE(C)/MANP/S-17/12
M19 & M22	8-7-1997	Letter No. AAI(NAD)/MAS/SE(C)/MANP/S-18/115(A)
M20	15-7-1997	Letter No. AAI(NAD)/MAS/SE(C)/MANP/S-18/129
M21	3-10-1997	Letter No. AAI(NAD)/MAS/SE(C)

नई दिल्ली, 17 अप्रैल, 2008

का.अ. 1064.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार नेवेली लिग्नाइट कॉर्पोरेशन प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 78/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-4-2008 को प्राप्त हुआ था।

[सं. एल-22012/203/2005-आई आर (सी एम-II)]

अजय कुमार गौर, डेस्क अधिकारी

New Delhi, the 17th April, 2008

S.O. 1064.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai as shown in the Annexure in the industrial dispute between the management of Neyveli Lignite Corp. Ltd., and their workman, received by the Central Government on 17-4-2008.

[No. L-22012/203/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Thursday, the 10th January, 2008

Present: K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 78/2006

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Airport Authority of India and their Workman)

BETWEEN

Sri A. Amalraj 1 Party/Petitioner

Vs.

The Director (Personnel) Neyveli 2 Party/Respondent
Lignite Corp. Ltd. Neyveli
Neyveli-607801

APPEARANCE:

For the Petitioner M/s Balan Haridas & R. Kamatchi
Sundaram

For the Management M/s N.A.K. Sarma,
N. Nithiyanandam & Meenakshi
Sundaram

AWARD

The Central Government, Ministry of Labour vide its
Order No. L-22012/203/2005-IR (CM-II) dated 22-08-2006

referred the following industrial dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the Management of Neyveli Lignite Corporation Ltd. in terminating the services of Sri A. Amalraj w.c.f. 04-08-2003 is just, fair and legal? If not, to what relief is the workman entitled?"

2. After the receipt of industrial dispute, this Tribunal has numbered it as ID 78/2006 and issued notices to both sides. Both sides entered appearance through their advocates and filed their claim and counter statements respectively.

3. The allegation in the claim statement are briefly as follows.

The petitioner joined the services of the Respondent Corporation as Industrial Worker Grade-II Trainee on 01.07.1996 and he was directed to work as Industrial Workers Grade-II in the Telecom Department. While so, he was served with an order dated 07-12-1998 in which it was alleged that the petitioner has secured the job by suppressing that his brother Sri A. Anthony Raj was employed in the corporation and he was asked to give an explanation. Even though, he has given his explanation, the Respondent authorities have not satisfied with the explanation, ordered for a domestic enquiry to be conducted against him. Though the Respondent Corporation has engaged a legally trained person he was not allowed defend himself with the assistance of the lawyer, thus, the enquiry as conducted by the Enquiry Officer is in violation of principles of natural justice. Further, when the petitioner requested the Enquiry Officer to summon his brother Sri A. Anthony Raj and also requested to summon one of the member of the selection committee who interviewed him before granting appointment on compassionate grounds but the Enquiry Officer has refused the request made by the petitioner. The action of the Enquiry Officer in failing to produce the witness requested by the petitioner vitiated the enquiry. The petitioner's brother has got his job by merit and he has left the family even when his father was alive and he was never considered as a member of the family by his father. Even in the medical book which was given to avail the medical benefits extended by the Respondent Corporation to the dependents and family members, the name of Anthony Raj viz. the petitioner's brother is not included. The said Anthony Raj even in the year 1991 left the family and had been living his own life without looking after the family of petitioner's father and the entire family's responsibility fell on the petitioner. Therefore, the petitioner has no intention to suppress any fact. While so, the Enquiry Officer held in a mechanical manner that the petitioner suppressed the fact of his elder brother's appointment in the Respondent Corporation. The Disciplinary Authority without applying his mind has come

to a conclusion that the findings of the Enquiry Officer is a correct one and imposed the punishment of removal from service without notice. The Disciplinary Authority and also the Appellate Authority has not considered the fact that petitioner's brother is not a dependent of the petitioner's father. Therefore, the question of any suppression does not arise at all. Without considering these aspects, the Disciplinary Authority imposed the capital punishment which is not valid in law. Further, in the case of one Sri A. Sivakumar, V. Sravanan, A. Joseph Xavier, S. Sethu Sridhar, R. Gnanavel; P. Selvaraj and M. Sundaramoorthy who are all employees, obtained appointment on compassionate grounds when their brother were also working in the Corporation, but in their case, the Respondent Management has imposed only the punishment of stoppage of two increments and censure. But in the case of the petitioner, though the petitioner's brother was not part of the family and not a dependent, the Respondent has imposed the extreme punishment of removal from service. Therefore, the order passed by the Disciplinary Authority which was confirmed by the Appellate Authority is illegal and contrary to law. In fact the punishment of removal is grossly disproportionate to the charges alleged against the petitioner. Hence, for all these reasons, the petitioner prays this Tribunal to pass an award holding that the order of the Disciplinary Authority and also the Appellate Authority are illegal, arbitrary, contrary to law and consequently a direction from this Tribunal to reinstate him in service with full back wages, continuity of service and all other attendant benefits.

4. As against this, the Respondent in his counter statement alleged that the petitioner's father Sri A. Arokiasamy who was working as Technician Grade-I was died while in service on 30-11-1995. On his demise, the petitioner applied for employment on compassionate grounds. Under the scheme in existence of the Respondent Corporation, no member of the family of the deceased should be employed in the Corporation while seeking employment on compassionate grounds. The petitioner having known that his elder brother viz. A. Anthony Raj is already employed in the Respondent Corporation as Industrial Worker Grade-I suppressed the fact and made false declaration to the Respondent Management and thereby secured employment on compassionate grounds on 24-06-1996. The Respondent having come to know of the mischief played by the petitioner, issued a charge memo dated 17-12-1998 and after proper enquiry and after affording opportunity to the petitioner by following principles of natural justice ultimately dismissed the petitioner from service taking into consideration the gravity of the proven misconduct. The employment on compassionate grounds is a concession given by the Respondent Corporation to the family of the deceased employee on fulfilling the conditions of the scheme. Since the petitioner, in violation of the conditions of the scheme

secured employment by unfair means, he was not entitled to any relief. The suppression made by the petitioner amounts to misconduct of fraud and dishonesty, giving false information and an act punishable under the law read with Standing Orders-14(1)B of the Respondent Management and therefore action was taken against him. For the memo, though the petitioner has given an explanation, the explanation given by him was not satisfactory, a departmental enquiry was ordered to be conducted. In his claim statement though the petitioner alleged that the Presenting Officer was a legally trained "person", this allegation was not taken by the petitioner before the domestic enquiry. Therefore, the allegation of Prejudice or disadvantage of having been defended by a co-workman is an afterthought in the venture of the workman to wriggle out the situation of the proven misconduct and hence it is not valid. Even in the submission, the petitioner has given an undertaking that he would abide by the action of the Management in case his statement was found to be not correct. The suppression of information which otherwise would have the petitioner ineligible for appointment was well established in the enquiry by the documents submitted by the petitioner himself and his mother. Therefore, the charges framed against him are well substantiated by documents submitted by the petitioner himself and the findings of the Enquiry Officer is well established. The non-examination of the selection committee members in the enquiry who recommended the selection of the petitioner under such circumstances is not necessary and the enquiry was held in a fair and proper manner and it is not vitiated as alleged by the petitioner. The petitioner wilfully suppressed the fact of the employment of his brother Sri A. Anthony Raj in the Respondent Corporation with an ulterior motive to secure employment against the rules by submitting false declaration. This amounts to misconduct involving fraud and dishonesty. The rules governing compassionate employment do not exclude the wards of the deceased employee from the definition of family members securing employment in the Respondent Management prior to the death of the said employee or those of wards living separately from the family of the deceased employee. The petitioner cannot harp on the punishment imposed on other persons. Those disciplinary action on delinquent employees initiated on the facts and circumstances of each case and in different context in this case, it has been clearly established that the petitioner totally lacked integrity since he has deliberately committed acts of dishonesty, fraud and an act punishable under law and hence the removal of the petitioner is totally justified. For all these reasons, the Respondent prays that the claim may be dismissed with cost.

5. Again the petitioner in his reply statement contended that the allegation of suppression of material facts by the petitioner is without any basis since the eldest

Son of Arokiasamy was never considered to be a part of the family. The petitioner has stated like that in the declaration for the reason that the brother of the petitioner may be a legal heir of the deceased Arokiasamy for which the Corporation would have insisted upon the legal heir certificate in the manner to the interests of the Corporation they would have got a letter from Anthony Raj as he is an employee of the Corporation to avoid any claim from other legal heirs. This will not establish that a brother who has left the family and who is living separately was supporting the petitioner's family at the time of compassionate appointment of the petitioner. The allegation that rules do not exempt any category is not correct because rules themselves provide for the employment on compassionate grounds. The Respondent Management was fully aware of the fact of the petitioner's brother was also employed and there was no suppression by the petitioner. Further, no justification has also been given by the Respondent as to why they have been treating the petitioner differently. Now this Tribunal has got every power under Section-11A of the ID Act to set aside the order of dismissal by exercising its power. Hence, he prays an award may be passed in his favour.

Points for determination are :

- (i) Whether the action of the Respondent Management for terminating the services of the petitioner w.e.f. 04-08-2003 is just, fair and legal.
- (ii) To what relief the petitioner is entitled ?

Point No. 1

6. The admitted case of both parties is the father of the petitioner viz. Arokiasamy was an employee of the Respondent Management and he was died in the year 1996 while he was in service and the first son of Arokiasamy viz. Anthony Raj has been appointed by the Neyveli Lignite Corporation (NLC) on merits in the year 1991 and the petitioner was appointed on compassionate grounds in the year 1996. The learned counsel for the Respondent contended the Respondent Corporation having a scheme for employment to the wards/dependents of the deceased employees on compassionate grounds and as per the scheme no other member of the deceased family should be in employment of the Respondent Corporation or in the canteen or in the theatre in any capacity. The object of providing the scheme for compassionate grounds is to enable the family to set over the sudden financial crisis due to the sudden death of sole bread earner. In this case, though the petitioner was appointed on compassionate grounds in the Respondent Management, the petitioner while he has submitted his application, he has suppressed the material fact that his elder brother Sri Anthony Raj is working in the Respondent Corporation which clearly shows the mala fide intention of the petitioner somehow securing the employment in the Respondent Corporation suppressing the vital information in the scheme. It is further argued that the petitioner has categorically stated in his

declaration that there is no other family member is working in NLC and only basing on these particulars furnished in the application and the statements given by the petitioner in the declaration and his mother, appointment was given to the petitioner on compassionate grounds, and therefore, the petitioner who has suppressed the material facts intentionally is not entitled to get any relief in this ID. In order to support his contention the Respondent marked 19 documents which are circulars issued by the Respondent Management and also the enquiry proceedings taken against the petitioner.

7. As against this, the learned counsel for the petitioner contended that the compassionate appointment in the Respondent Management is given to the employee's family to tide over the crisis owing to death of the bread earner. In this case, though it is alleged Anthony Raj viz. the brother of the petitioner was appointed by the Respondent Corporation and he is a member of the family of Sri Arokiasamy, the said Anthony Raj was appointed by the Respondent Corporation on 7-1-1991 on his own merits after being sponsored by Employment Exchange. The said Anthony Raj who after securing employment left the family on his own and this fact was not disputed by the Respondent Corporation. Since, the said Anthony Raj having left the home in the year 1991 and since he was not treated as part of the family and only because of this, Arokiasamy, father of the petitioner has not included the name in his medical book of the Corporation. On the death of Arokiasamy viz. the father of the petitioner, the family was in distress and the said Anthony Raj having left the family much prior to the death, was not part of the family and, therefore, the petitioner has not mentioned the said Anthony Raj as a member of the family in the application. Therefore, there is no suppression on the part of the petitioner more particularly there is no wilful suppression for securing the employment on compassionate grounds. The learned counsel for the petitioner further contended that even in the circular marked by the Respondent Authority as Ex.M4 which is a circular dated 19-01-1990 and which has been issued for the employment to the wards/dependents of the deceased employees, in the 2nd para it is clearly mentioned that with a view to give speedy relief to the wards/dependents of the deceased employees, the following course of action will have to be henceforth followed:

- (i) As soon as an employee dies while in service, the details of the wards/dependents as available in the service records as well as by enquiring the members of the family are to be collected.
- (ii) They are to be checked with Medical Identity Cards and P.F. nomination and gratuity nomination available with the unit personnel etc. etc. Further, in 4th para each details with the application from the wards/dependents, it is to be mentioned :

(a) Name of the deceased employee

- (b) P.F. Number
- (c) Division, designation and date of death of the employee
- (d) Normal date of retirement
- (e) Name of the claimant
- (f) Relationship with the deceased employee
- (g) The name and relationship of other members of the family to the deceased employee
- (h) Identification marks
- (i) Educational qualification/technical qualification
- (j) Experience, if any.

Only in the Annexure, it is mentioned as general conditions that no other member of the family should be employed in NLC or in the Industrial Canteen, Amaravathi theatre etc. in any capacity. The learned counsel for the petitioner further contended since the scheme was introduced as a welfare measure and since it is introduced to provide an appointment to a member of the deceased employee to help the family of the employee on the death of the employee and since the petitioner was the only member on whose shoulder the responsibility to maintain the family fell, he has made an application and it is clearly stated by the petitioner that his brother Anthony Raj after securing the employment has left the house and has been living on his own and he was not a dependent and therefore he was not considered as a part of the family and that is why his name has not been included in the Medical Card issued by the Respondent Corporation and it is also admitted that Anthony Raj was also issued a separate Medical Card by the Respondent Corporation, under such circumstances, there is no suppression of material fact and that too a wilful suppression of the material fact. It is his further argument that the other employees of the Respondent Management viz. one K. Sivakumar whose P.F. No. 37798, one Saravanan whose P.F. No. 39801, one Joseph Xavier whose P.F. No. 37853 and one Sethu Sridhar @ S. Kolanchiappan whose P.F. No. 37877 and one Gnanavel whose P.F. No. 37854 and one Sundaramoorthy whose P.F. No. 39175 who have all appointed on compassionate grounds when their brothers were already working in the Corporation and the Corporation has taken action against them has imposed only the lesser punishment of stoppage of increment and also the punishment of censure on them. But in this case, even though the brother of the petitioner was not a part of the family and who was separated even while his father was alive, the Respondent has taken a different view and has imposed extreme punishment of removal from service which clearly amounts to discrimination in the matter of punishment apart from arbitrary exercise of powers. He further argued that in any event the punishment of removal is grossly disproportionate to the charges alleged against

him and this Tribunal has got every power under Section 11A of the ID act to interfere with the quantum of punishment and impose lesser punishment or to set aside the order of punishment imposed by the Respondent Management. The learned counsel for the petitioner examined the petitioner as WW1 and also marked 5 documents viz. Ex.W1 to Ex.W5 which are the orders passed by the Respondent Authority in the case of Joseph Xavier, Gnanavel, in the case of Sethu Sridhar, in the case of K. Sivakumar and in the case of Selvaraj. But again the learned counsel for the Respondent contended that the learned counsel for the petitioner on 14-05-2007 made an endorsement in the Claim Statement to the effect that the petitioner is not challenging the enquiry proceedings and restricted his dispute in respect of quantum of punishment imposed by the Respondent authorities, therefore, under the proviso contained in Section-11A of the ID Act, the Tribunal has only to rely on the materials on record and shall not take any fresh evidence in relation to the matter. Since the petitioner invoked Section 11 A of the Act, this Tribunal shall not take into account the Exs.W1 to Ex.W5 which are not marked in the domestic enquiry and this document cannot be taken into consideration for invoking Section 11A of the ID Act. Further more, even apart from the argument, the punishment given to the various persons as found in Ex.W1 to Ex.W5 were not appointed on compassionate grounds and the petitioner has specifically admitted this fact in the cross-examination, therefore, the persons under Ex.W1 to Ex.W5 stands on different footing and reliance on these exhibits is untenable. Therefore, the plea that similarly placed persons were given lesser punishment is not sustainable.

8. But again the learned counsel for the petitioner contended that it cannot be said that the petitioner has produced a fresh evidence before this Tribunal because the exhibits produced show the discrimination exercised by Respondent Authority and therefore the petitioner has got every right to rely on the documents and to say that similarly placed persons were given lesser punishment for similar offence. Further, he argued in all these cases marked in the Exs.W1 to Ex.W5, it is stated that only because of suppression of the fact that the brother of the concerned employees even though working in NLC, the fact has been suppressed by the employees concerned but the authorities have taken different stand and imposed a lesser punishment viz. reduction in salary and the punishment of censure were awarded to the concerned persons. While in this case, the Respondent Management has taken a different view and imposed a capital punishment of removal from service which is clearly disproportionate to the charges framed against the petitioner. Further, he argued even though the Respondent Advocate argued that those persons mentioned in Ex.W1 to Ex.W5 were not appointed on compassionate grounds and they were given appointments for some other reason, they can produce documents to

show pertaining to those appointments, there is no condition that no member of the family should not be employed in NLC. On the other hand, from the orders passed by the Respondent Authority under Exs. W1 to Ex. W5, it is clearly mentioned that the concerned employees have suppressed the fact that their brothers are employed even prior to their appointment which is a suppression of material fact and it is his further argument though the Respondent Authority's contention that those persons stand on different footing, they have not established this contention before this Court how they were stand on different footing. Under such circumstances, it should be clear that the Respondent Authority has imposed different punishment for similarly placed person for similar offence.

9. Then again the learned counsel for the Respondent contended though the petitioner argued that the Respondent Authorities has exercised different yardstick in imposing the punishment and he was imposed the capital punishment of removal from service and which is disproportionate to the charges framed against him, it is well established in the domestic enquiry that he has suppressed the material fact that his brother was employed in NLC and he has not given this fact while filling up the application and also not given in the declaration. He further argued that even in his application it is clearly mentioned "in case if I am appointed and if any of the particulars furnished above are found to be false, I am fully aware that appropriate disciplinary action will taken against me by the Management besides terminating my services from the Corporation".

Further, he has given a statement stating that "in his family, no member of the family was working in NLC and if action was taken against him, he is bound by the action taken by the authorities". Under such circumstances, it is clearly established in the enquiry, the petitioner wantonly furnished the details of family particulars in which he has not mentioned the name of Sri Anthony Raj who is his own brother and who has already employed in NLC which clearly established the malafides of the petitioner to somehow secure employment in the Respondent Management suppressing the vital information under the scheme. As per the scheme it is mentioned no other members of the deceased family should be in the employment of NLC or in NLC Industrial Canteens or in the Amaravathi theatre etc. in any capacity and he further relied on the rulings reported by the High Courts and Supreme Court. One of the judgement relied on by the learned counsel for the Respondent is reported in 1999, 1, LLJ, PAGE 685, SUNDARRAJU Vs. MANAGING DIRECTOR, A.P.S.R.T.C & ANOTHER, in that case while considering an appointment of employment on compassionate grounds, the Andhra Pradesh High Court has held "if one of the dependents of deceased employee is already in employment, the compassionate appointment of other dependents is impermissible and this rule is neither arbitrary

nor unreasonable and does not violate Article 14 of Constitution", the next judgement relied by Respondent Corporation is reported in 2003, 2, LLJ, PAGE 523, KENDRIYA VIDYALAYA SANGATHAN AND OTHERS VS. RAM RATAN YADAV wherein the Supreme Court has held "the Respondent in the WP who was appointed as Physical Education Teacher by the appellants had challenged an order of Central Administrative Tribunal by which the Tribunal upheld the termination of the respondent's service on the ground that he had intentionally concealed the fact that he was prosecuted and the case was pending against him in a Court of Law. The Supreme Court allowed the appeal setting aside the judgement of the High Court and restoring the order of the Tribunal by saying that a criminal case was pending against him when the Respondent filled the attestation form in which by writing "No" against the relevant queries, this he plainly suppressed the material information and made a false statement. Therefore, the termination of his service was justified". The next judgement relied by the learned counsel for the Respondent is reported in 2001, 1, LLJ, PAGE 163, SAIL & ANOTHER Vs. AWADHESH SINGH AND OTHERS wherein the Supreme Court while considering the compassionate appointment held "whether the memorandum of agreement of the Management permits for an appointment on death of an employee to one of the dependents of the deceased employee if some other dependent of the deceased employee is already in service has held if any of the dependents of the employee is already employed, no other dependent would be employed in case of death of the employee under such memorandum of agreement and if it is allowed the very purpose for which such scheme have been evolved would get frustrated". Relying on all these decisions, the learned counsel for the Respondent contended since the petitioner has suppressed the material fact while giving a statement with regard to his family only to get an employment under the compassionate ground of appointment, he is not entitled to claim any relief in this case. I find much force in the contention of the learned counsel for the Respondent.

10. But on the other hand, the learned counsel for the petitioner argued that though it is well settled if some other dependents cannot get an appointment under the compassionate grounds. In this case, the brother of the petitioner is not dependent at the time of the death of the father of the petitioner, he was not the supporting member of the family and he was not a dependent and only mother of the petitioner and his younger brothers and sisters are dependents of the father. Therefore, even though it is argued when one of the dependents was in employment, any dependents cannot claim appointment on compassionate grounds, in this case, since the brother is not a dependent and since he was separated from the family, the petitioner has not mentioned his brother's name in the application. In this regard, even in the circular Ex.M4, it is

mentioned that the authorities must check the medical card issued by the Corporation with regard to members of the family. Under such circumstances, though the petitioner has not mentioned his brother's name in the family particulars, it is not a suppression of fact more particularly a willful suppression of the fact, therefore, the petitioner is entitled to get the relief as prayed for.

11. Though I find this argument is vehement, I find by not giving the name of the petitioner's brother, the petitioner has suppressed a fact which is against the scheme of compassionate grounds, as such I find the action of the Respondent Management in terminating the services of the petitioner is just, fair and legal.

12. The next point to be decided in this case to what relief the petitioner is entitled to ?

In view of my foregoing findings that the action taken against the petitioner by Respondent Authority is just, fair and legal, I find the petitioner is not entitled to any relief in this I.D.

13. Thus the reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 10th January, 2008).

K. JAYARAMAN, Presiding Officer

Witnesses Examined:-

For the I Party/Petitioner : WW1 Sri A. Amalraj

For the II Party/Management : None

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	14-06-2003	Order of punishment given to Joseph Xavier
Ex.W2	14-10-2003	Order of punishment given to J. Murugavel
Ex.W3	22-03-2005	Order of punishment given to Sethu Sridhar
Ex.W4	22-03-2005	Order of punishment given to Sivakumar
Ex.W5	22-03-2005	Order of punishment given to P. Selvaraj

On the 2nd Party/Management's side

Ex.No.	Date	Description
Ex.M1	—	Scheme for providing employment to Wards/Dependents of deceased employee
Ex.M2	10-10-1984	Circular
Ex.M3	29-8-1989	Circular
Ex.M5	19-1-1990	Circular

Ex.M5		Norms for selection of deceased of deceased employee/dependent
Ex.M6	15-03-1996	Circular
Ex.M7	01-07-1996	Joining report of the individual
Ex.M8	17-12-1998	Memo
Ex.M9	04-01-1999	Explanation given by the individual
Ex.M10	05-03-1999	Order of enquiry
Ex.M11	27-10-2000	Letter calling objection from the individual alongwith the enquiry report
Ex.M12	—	Enquiry report

नई दिल्ली, 17 अप्रैल, 2008

क्र.आ. 1065.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अर्नाकुलम के पंचाट (संदर्भ संख्या 13/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2008 को प्राप्त हुआ था।

[सं. एल-12012/118/2005-आई आर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th April, 2008

S.O. 1065.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref.13/2006 of the Cent. Govt. Indus. Tribunal-cum Labour Court ERNAKULAM as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 16-04-2008.

[No. L-12012/118/2005-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ERNAKULAM

Present : Shri P. L. Norbert, B.A., LL.B., Presiding Officer (Friday the 14th day of December 2007 /23rd Agrahayana 1929)

I.D.13 OF 2006

Workman	Sony Thomas, Vathiath House, C/o.Thankachan, Padivattom, Edapally P.O., Kochi. By Advocate Sri.C.S.Ajith Prakash.
Management	The Deputy General Manager, Indian bank, Circle Office, 3575, 38/ 1672-B & C. Chittoor Road, Pullepady Junction, Kochi-682 035.

By Adv. Sri S. Easwaran.

This case coming up for hearing on 14-12-2007, this Tribunal-cum-Labour Court on the same day passed the following.

AWARD

This is a reference made under Section 10(1)(d) of I.D. Act questioning the action of management in retrenching the workman.

Though parties entered appearance and filed their pleadings, when the matter came up for evidence the worker submitted that he is not pressing the dispute. An endorsement to that effect was made in the claim statement. In the circumstances it has to be presumed that there is no existing dispute for adjudication.

In the result, an award is passed finding that the action of the management in retrenching the workman, Shri. Sony Thomas is legal and justified and the workman is not entitled for any relief.

Typed, corrected and passed by me on this the 14th day of December, 2007.

P. L. NORBERT, Presiding Officer

Appendix : Nil.

नई दिल्ली, 17 अप्रैल, 2008

का.अ. 1066.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉर्पोरेशन बैंक के प्रबंधन के संबंध निपोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 13/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-4-2008 को प्राप्त हुआ था।

[सं. एल-12012/271/1999-आई आर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th April, 2008

S.O. 1066.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref.13/2002 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Corporation Bank and their workmen, received by the Central Government on 17-4-2008.

[No. L-12012/271/1999-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BANGALORE**

Dated the 17th December, 2007

Present : Shri A. R. SIDDIQUI, Presiding Officer

C.R. No. 13/2002

I Party

Sh. MB Kulkarni,
C/o V T Sabnis,
No. 28, Chandramouli,
Nehrunagar, Gokul Road,
HUBLI - 580 030.

II Party

The Regional Manager,
Corporation Bank, Regional
Office, Near Basaveswara Circle,
Near Bus Stand,
HUBLI - 580 029.

APPEARANCES

I Party

Shri N S Narasimha Swamy
Advocate

II Party

Shri N Venkatesh, P S Sawkar
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L- 12012/1271/1999-IR(B-II) dated 22-02-2002 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the management of Corporation Bank in dismissing the service of Shri Mukund B Kulkarni vide order dated 25-1-1996 is justified? If not, what relief the workman concerned is entitled to?"

2. A charge sheet dated 14-05-1994 came to be issued against the first party workman in following terms:—

"You have been working as Clerk at Dharwad Branch of the Bank since 20-8-1991. It is reported against you as follows:—

- 1.01. That on 22.12.1993, you were working as Cashier at the Branch. That on that day, at about 11.30 A.M. M/s. Mahindarakar Brothers, Constituents of the Branch remitted Cash of Rs. 3,24,500 and Rs. 64,750 in various denominations. That Sri P. Raghupathi, Cash Officer was given Rs. 1,50,000 out of the said cash in Rs. 100 denomination for the purpose of counting. That the remaining cash was stitched by Sri Nagaraj Kulkarni, Peon and handed over to you for the purpose of verification. That the cash packets were also counted by Sri Nagaraj Kulkarni and found correct. That you verified the cash, entered the slip in the Tellers Rough Cash Book and

handed over the cash to Sri Raghupathi for the purpose of counting. That while doing so, you clandestinely removed a cash packet of Rs. 5 denomination from the said cash. That Sri Raghupathi received the cash from you without counting the cash packets. Subsequently, on verification by Sri Raghupathi, it was found that there was a shortage of one cash packet of Rs. 5 denomination amounting to Rs. 500. That Sri Raghupathi made good the shortage of Rs. 500 on that day. That on 27-12-1993, when Sri Raghupathi made enquiries with you in that regard, you admitted having removed cash of Rs. 500 p.m. 22-12-1993 and promised to repay the same to him. That on 29-12-1993, you repaid the amount of Rs. 500 to Sri Raghupathi through Sri V V Kulkarni and Sri R K Shyamsundar, employees working at the Branch.

- 1.02. That M/s. Mahindrakar Brothers, constituents of the branch have been remitting cash regularly at the Branch ranging from Rs. 2.00 lacs to Rs. 4.00 lacs daily for the last several years. That during the months of September to December, 1993, you were reporting shortage in their remittance and they were reimbursing the shortage. That on a few occasions, before remitting cash, they had counted and checked the cash twice and despite that you had reported shortage in their remittance. That in that regard, the constituents lodged complaint dated 22-12-1993 at the Branch. That on 27-12-1993, the representative of the said firm Sri C. I. Bidri while tendering the cash in respect of cash paying in slip for Rs. 7321, knowingly tendered excess cash of Rs. 300 i.e. 2 notes of Rs. 100 denomination and 2 notes of Rs. 50 denomination. That Sri Bidri also noted down the numbers of the notes of Rs. 50 denomination and Rs. 100 denomination tendered to you. That although there was excess of cash of Rs. 300 in the cash tendered to you, you accepted the entire cash and issued the counter foil to Sri Bidri without however declaring that there was excess in the cash tendered by him. That thereupon, Sri Bidri complained to Sri Vijaya Kumar Prabhu, Sub-Manager and you admitted before Sri Prabhu that, there was excess in Rs. 50 denomination notes only. That there after the Branch manager instructed for checking of the cash in the cash cabin and in the meantime, you were asked to be seated in the Manager's cabin. That while checking was in progress, you went to the stationery room and hid the excess cash received by you in the stationery bundles. That later on 2 notes of Rs. 100 denomination and another 2 notes of Rs. 50 denomination hidden by you in

the stationery bundles were recovered. That thus, you did not account for the excess cash tendered by the customer with a dishonest intention to derive undue pecuniary gain.

2. The first party submitted his explanation dated 18-07-1994 denying the allegations of the misconduct as levelled in the charge sheet. The Disciplinary Authority not being satisfied with his explanation ordered Domestic Enquiry into the matter and on the conclusion of the enquiry, the Enquiry Report dated 23-08-1995 was submitted by the Enquiry Officer giving a finding on the aforesaid first charge in favour of the first party and where as recorded a finding on the second charge holding the first party guilty of the said charge. The Disciplinary Authority vide proceeding dated 28-9-1995 proposed the punishment of dismissal giving opportunity of hearing to the first party and there upon confirmed the punishment vide order dated 25-01-1996. The appeal preferred by the first party came to be dismissed by order dated 11-05-1996. There upon it appears, the first party raised the dispute with the conciliation officer concerned resulting into the present reference proceedings.

3. The case of the first party workman as made out in his claim statement, in brief, is to the effect that the charge sheet dated 14-05-1994 was concocted and issued at the dictates of the vigilance department of the management not based on the facts. The documents including the complaint in support of the charge sheet have been cooked under the guidelines of the vigilance cell; that the alleged complaint dated 22-12-1993 from Mahindrakar Brothers and the two complaints by Shri C. I. Bidri (Badli), one undated and other dated 23-02-1994 marked during the course of enquiry Ex M-10, Ex M-7 and Ex M-9 respectively do not bear inward diary seal of the bank and even cooked up to issue the charge; that the alleged excess cash as mentioned in the charge sheet of Rs. 300 was never produced during the course of the enquiry nor Machine Numbers of those notes said to have been traced in the stationery bundle were tallied with the machine numbers allegedly noted by the said complainant Bidri, who is said to have remitted the cash with the bank through the first party; that the counter foil of pay-in-slip mentioned in the charge sheet was not among the documents produced during enquiry. The alleged excess cash was never accounted as per banking rules and no document was produced to substantiate the remittance on 27-12-1993; that the written complaint for the incident in question by said Bidri was filed only on 23-2-1994 and the other complaint by the said Bidri is undated and it is there after the charge sheet is filed only on 14-5-1994 and there was an inordinate delay not explained at every stage and circumstances fatal to the entire Disciplinary Proceedings; that the Enquiry Report holding the first party guilty of charge No. 2 is based on no evidence and findings are perverse in as much as the Enquiry Officer did not appreciate the fact of non-tendering

of the excess cash of Rs. 300 during the course of the enquiry; that the real customers Mr. Mahindrakar Brothers who made a general complaint on 22-12-1993 at Ex M-10 was never examined so also the scribe of other two complaints at Ex M-7 and Ex M-9; that the Enquiry Officer did not appreciate the fact that the said Bidri was not at all the customer of the bank and that he visited the branch for the first time and never knew the first party; that Enquiry Officer failed to appreciate the fact that there was no evidence produced to show that any excess cash was produced on 27-12-1993 and there was no accounting of alleged excess cash. He failed to appreciate the defects in cooked up documents and also failed to appreciate the various relevant points raised in the written brief submitted by the first party on the conclusion of the enquiry; that the order of the Disciplinary Authority based on the findings suffering from perversity was passed in a routine manner without application of the mind and without a speaking order. Therefore, the findings of the Enquiry Officer as well as the dismissal order passed against him were illegal and liable to be set aside. In the result, the first party requested this tribunal to pass an award setting aside the dismissal order and reinstate him into service with full back wages and other consequential benefits.

4. The management by its counter statement among other grounds, contended that the reference is liable to be rejected solely on the ground of delay and laches on the part of the first party in raising the dispute in the year 2002 i. e., after a gap of about six years from the date of the dismissal. While narrating the allegations made in charge sheet, the management contended that after affording sufficient and reasonable opportunity to the first party to defend his case taking the assistance of Shri Stephen Jayachander, Assistant Secretary, Canara Bank Employees Union and his Defence Representative cross-examine all the management witnesses at length and even opportunity was given to the first party to adduce his defence evidence and he produced six documents which were marked at Ex. D-1 to Ex D-6. The management then contended that after conclusion of the enquiry a report was submitted holding the first party guilty of the second charge and then a copy of the report was sent to the first party after issuing the second show cause notice proposing the punishment and giving hearing in regard to the punishment and findings of the Enquiry Officer and it is thereupon the alleged punishment order dismissing the first party from service was passed. His appeal against the dismissal order was also rejected. The management then contended that with regard to the validity of the Domestic Enquiry an issue may be framed and finding may be given in the first instance. The management then gave reply to each of the paras of the claim statement denying the averments made by the first party in challenging the proceedings, in challenging the dismissal order so also the contentions taken by the first party with respect to the oral and documentary

evidence produced during the course of the enquiry. In the last, the management requested this tribunal to reject the reference.

5. Based on the aforesaid contentions of the parties my learned predecessor in the first instance took up the question with regard to the validity and fairness of the enquiry proceedings conducted against the first party. During the course of the trial of the said issue, the management examined Enquiry Officer as MW 1 and got marked 19 documents at Ex M-1 to Ex M-19. By order dated 24-10-2002 my learned predecessor recorded a finding to the effect that the Domestic Enquiry conducted against the first party is fair and proper. Thereupon the first party examined himself on the point of victimization and after hearing learned counsel for the parties an award dated 28-2-2003 was passed rejecting the reference.

6. Aggrieved by the order dated 24-10-2002 and the award dated 28-02-2003, the first party approached the Hon'ble High Court in W P No. 31948/2003 and his lordship of Hon'ble High Court by order dated 24-07-2007, not interfering with the order dated 24-10-2002 passed by this tribunal, quashed the aforesaid award and remanded back the matter to this tribunal with a direction to reappraise the evidence on record and to pass appropriate orders as to the guilt or otherwise of the first party and also regarding the proportionality of the punishment by permitting the first party to examine himself on the plea of victimization and to dispose off the matter within 3 months from the date of receipt of the records.

7. After the remand both the parties were notified and they appeared through counsels. First party examined himself on the point of victimization and got marked two documents at Ex W-1 and Ex W-2. On the part of the management MW 2 was examined by way of rebuttal. Thereupon, I have heard learned counsels of the respective parties on merits and the case is posted on this day for award.

8. Learned counsel for the management Sh. N. Venkatesh, vehemently argued that as findings of this tribunal on Domestic Enquiry has gone in favour of the management, now, the only question to be considered would be whether the second charge levelled against the first party has been proved or not as per the findings of the Enquiry Officer. While supporting the findings of the Enquiry Officer on the charge, learned counsel submitted that the management in order to substantiate the charges levelled against the first party examined in all 7 witnesses and got marked as many as 13 documents Ex M-1 to Ex M-13. He contended that there was sufficient and legal evidence of an independent witness by name Bidri who made two complaints against the first party speaking to the fact that he paid an excess cash of Rs. 300 apart from a sum of Rs. 7321 on 27-12-1993 so as to test the integrity of the first party as he was in the habit of reporting shortage

of the amount being paid with the bank by the aforesaid firm Mahindrakar Brothers on several occasions. He contended that though the first party received the excess amount of Rs. 300 he failed to return the same to the said complainant examined as MW 1 and he had hidden the said amount in the stationery bundle kept in the stationery room and that came to be recovered by the Branch Manager and thereupon further procedure was followed by the Branch Manager in reporting the incident to the higher authorities and it is on the conclusion of the investigation, charge sheet was issued against the first party. He contended that the Bank Manager, the Sub-Manager as well as the other officials of the bank have spoken to the aforesaid facts alleged in the charge sheet corroborated by the documentary evidence and therefore second charge of misconduct against the first party has been very much proved.

9. He nextly contended that the charge of misconduct is very grave in nature and the management was justified in dismissing him from service, he then quoted several decisions of various High Courts and Supreme Court contending that when the Domestic Enquiry finding has gone in favour of the management and charges of misconduct have been proved during the course of the enquiry the provisions of Section 11 (a) of the ID Act need not be invoked by this court and the punishment order passed by the Disciplinary Authority also cannot be interfered with it being a case of misappropriation involving moral turpitude. I would like to come to those decisions hereinafter if found relevant and necessary. Learned counsel for the management also argued on the alleged victimization saying that when the charge of misconduct itself is proved there cannot be any question of victimization. He also contended that there is no evidence produced satisfactory to be relied upon in supporting the contention of the first party on this point.

10. Whereas learned counsel for the first party, Sh. NSN challenged the findings of the Enquiry Officer on the second charge on various grounds already urged in the claim statement and will be taken into consideration by this tribunal one after the other.

11. Before adverting upon the merits of the case and appreciating the respective arguments advanced for the parties, I would like to bring on record in brief the oral and documentary evidence produced by the parties during the course of the enquiry.

12. As could be read from the Enquiry Proceedings and the Enquiry Report, the management examined seven witnesses as MW 1 to MW 7. MW 1 said to be the complainant who tendered excess cash of Rs. 300 with the first party along with a sum of Rs. 7321 to be remitted with the bank as a representative of the said Mahindrakar Brothers. MW 2 is one Mr. Venkatesh V Kulkarni said to have been working as Clerk and said to have been made

his statement before the Branch Manager with regard to the first charge levelled against the first party. MW 3 is the then Branch Manager to speak to the fact that he received a letter at Ex M-2 from the vigilance cell and in response to the said letter he recorded statement of witnesses MW 4, MW 5 and MW 9 and sent them to the vigilance cell as per his letter at Ex.M3. MW 4 is one Mr. Nagaraj Kulkarni, once again working as a clerk to speak to the fact that on 27-12-1993, he went to bring stationery from the stationery room, the Manager Arun Kumar and Lakshman Kamkar were present there and Lakshman Kamkar took the stationery from the room to the Manager's cabin and when the bundle was opened currency notes were found but he did not note the details of the case. MW-5 is one Mr. K Arun Kumar, who has deposed to the fact that his statement at Ex M-5 was recorded by the Branch Manager and the contents of his statement are correct. He has also spoken to the fact that in the cabin of the Manager in the presence of other officials, the first party made his admission of the misconduct committed by him. MW 6 is the then Sub Manager Mr. Prabhu who spoke to the fact that on 27-12-1993, the complainant told him of paying of excess cash of Rs. 300 consisting of two notes of Rs. 100 notes of denomination and two notes of Rs. 50/ denomination with the first party but first party returned only counter foil and not the excess cash and then he enquired about the matter, counted the cash on his table and found it to be correct, then a piece of paper was produced by the complainant showing the numbers of the notes and they were compared with cash amount and the numbers rounded off in the piece of paper at Ex M-8 were found missing. It is his further statement that then the stationery bundle was brought to the cabin of the manager and was found containing currency notes, in the meanwhile, Mr. Arun Kumar came out of the stationery room to report that first party was seen in pushing some currency notes into the stationery bundle. MW 7 was the last witness for the management and his statement was to the effect that 27-12-1993 while he was in the stationery room, Arun Kumar came there for some loan application forms followed by the first party and it is Arun Kumar who told him that first party kept something inside the stationery bundle and that he himself has not seen him keeping inside the said bundle. He then stated that he and Nagaraj Kulkarni took the bundle to the Manager's cabin which contained a sum of Rs. 300. The documents which were marked during the course of the enquiry at Ex M-1 to Ex M-13, are the letter dated 27-12-1993/13-01-1994 addressed to the Regional Manager by the Branch Manager MW 3, a letter dated 22-2-1994 written by the Senior Manager to the Branch Manager namely MW 3, the statement dated 25-2-1994 said to have been given by the said Prabhu to the Branch Manager, the statement dated 23-02-1994 said to have been made by Arun Kumar to the Branch Manager, Pay in slip dated 27-12-1993, the complaint dated 23-2-1994 said to have been made by said Bidali, the letter dated 22-12-1993 to the Branch

Manager by Mahindrakar Brothers, the letter dated 27-12-1993 written by the first party to the Manager requesting him to change him to other department. The letter dated 29-12-1993 by one Sh. R. Raghupathi to the Branch Manager giving details of the incident involving the first party for first charge and statement dated nil given by one Mr. V. V. Kulkarni concerning to the first party respectively. The documents produced by the first party at Ex D-1 to Ex. D-6 once again are the copies of the statements of Nagaraj Kulkarni, said Prabhu, said Arun Kumar at Ex D 1, D-2 and D-4. Ex D 3 is the representation by the officials of the bank to the Deputy General Manager making a complaint of the suffering and the hardship being caused to the officials of the bank working as Cashiers. Ex D-5 and D-6 are the xerox copies of the scroll sheet dated 27-12-1993 and 28-12-1993. This is all the oral and documentary evidence which was considered by the Enquiry Officer while exonerating the first party on first charge and holding him guilty to the second charge.

13. On going through the aforesaid records, I find substance in the arguments advanced for the first party, that there is no sufficient and legal evidence to sustain the aforesaid second charge against the first party and therefore findings on the said charge suffered from perversity. In order to bring home the guilt of the first party on the second charge, three important factors were to be established, firstly, the alleged excess cash payment of Rs. 300 to the first party by Mr. Bidali, the second factor whether the first party himself kept those Rs. 300 currency notes in stationery bundle and third factor will be the recovery of the same from the stationery bundle. The Enquiry Officer on the first point entirely relies upon the statement of Bidali coupled with his two aforesaid complaints one undated and the other dated 23-2-1994. The statement of Mr. Bidali in his examination in chief is to the effect that he tendered a sum of Rs. 7321 plus excess cash of Rs. 300 to the first party saying he wanted to deposit a sum of Rs. 7321 only, but the first party did not return him the excess amount of Rs. 300/- when he demanded, instead the first party kept two fifty rupees notes on the table as an excess cash and kept two notes of hundred rupees denomination in his table drawer and for that he approached the Sub-Manager MW 6 who in turn counted money and found it to be Rs. 7321 and when piece of paper containing the numbers of currency at Ex M-8 was produced by Mr. Bidali he found that two notes of Rs. 100 and two notes of Rs. 50 denomination were found missing. If we go by the above statement of Bidali so also the statement of MW 6 which was again relied upon by the Enquiry Officer, it is hard to believe as to what difficulty MW 6 faced rather what prevented him not immediately seizing those two notes of Rs. 50 denomination kept on the table and two notes of Rs. 100 denomination which were kept in the table drawer of the cabin of the first party. The story goes to say that MW 6

reported the matter to MW 3, the management and the Manager asked the first party to remain in his cabin itself till the enquiry was completed. The story appears to be quite unnatural and against the calendar of the events. A question arises as to what once again prevented the Branch Manager MW 3 not to rush to the cabin of the first party and then to seize or recover the aforesaid amount kept on his table or in his table drawer. Then the next question will be what prevented Mr. Bidali in not making complaint on the very same date about the said incident. The one complaint which is not dated cannot be taken to be a complaint to have been filed immediately after the incident. As undisputedly MW 3 made no report of the incident to the higher authority, namely, the Regional Manager till 13-01-1994 on which date he sent his report at Ex M-1, narrating the facts leading to the incident and thereafter. Therefore, we have to ignore the aforesaid undated complaint and when we come to the other complaint i.e., Ex M-9, it is dated 2-2-1994 made after a gap of about two months from the date of the incident. The very fact that there was no complaint by the Bidali immediately after the incident, the fact that the branch management never reported the incident to the higher authority uptill 13-01-1994 must give rise to the suspicion that no such incident in fact had taken place as on 27-12-1993. If really such an incident happened on that day then even in the absence of any complaint from Mr. Bidali, the bank Manager must have taken cognizance of the incident and must have sent a report accordingly to the higher ups. Therefore, in the absence of any such complaint and the report, it is improbable to believe that there was incident as alleged against the first party. It was rightly argued for the first party that payment of excess cash to first party itself is not established by any documentary evidence. The only documents produced is Ex M-6 i.e., pay in slip but there is no counter foil produced being issued to Mr. Bidali by the first party. In fact, statement of Mr. Bidali before the Enquiry Officer is self-conflicting on the point. Once he stated that when he demanded the excess cash amount the first party without returning the same gave him the counter foil and again is statement was to the effect that it was given to Mahindrakar Brothers. It is not in dispute that as on 27-12-1993 there has been no payment or remittance of Rs. 7321 accounted with the bank. Documents at Ex D-5 and D-6 produced will reveal that the aforesaid amount was in fact was accounted with the bank on 28-12-1993, in fact this statement of MW 3 also has stated that amount was taken into account as late payment on 28-12-1993. Therefore, the very fact that the first party received any amount much less the excess cash from Mr. Bidali and passed the counter foil in his favour against Ex M 6 fails to be established by the evidence produced by the management. As noted above, the very fact that there was no complaint by Mr. Bidali immediately after the incident, that, there was no recovery of the amount kept on the table and also in the table drawer in the cabin of the first party

and the fact that there was no report by MW 3 about the incident to the higher ups must lend support to the contention of the first party that the payment of either of Rs. 7321 or the payment of excess cash remains to be substantiated in the evidence of Mr. Bidali as well as in the evidence of MW-3 and MW-6. The story of the management that first party was indulging in reporting of the shortage of payment of the amount being remitted by Mahindrakar Brothers and for that they sent a letter at Ex M-10 dated 22-12-1993 and in order to test the integrity of Mr. Bidali paid excess cash of Rs. 300 under Ex M-6 again stands on very shaky ground. It is said that an heavy amount of Rs. 2 to 4 lakhs was being remitted by the bank and on each occasion first party was reporting shortage to be reimbursed by Mr. Bidali. It is not believable as to how such omissions on the part of the first party would have been allowed for quite a long time and even if the Mahindrakar Brothers wanted to test the integrity rather to trap the first party, they must have come out again with some heavy payment to ascertain as to whether any shortage again with some heavy payment to ascertain as to whether any shortage again still be pointed out by the first party, but, here is the case where Mr. Bidali said to be representative of Mahindrakar Brothers comes with a meagre amount of Rs. 7321 with excess cash of Rs. 300 to be paid in the account of the bank and it is said that the first party did not account for the excess cash on the face of it itself the story appears to be improbable and unbelievable, particularly, when it has come in the evidence of Mr. Bidali that he had never come to the bank except on 27-12-1993 when he wanted to remit the above said amount. In his own words he did not know the first party earlier to that. One more story is added to say that Bidali was accompanied by his three to four friends to identify the first party working as Cashier known to them they were not examined before the Enquiry Officer. It will not be out of the context to note here that the two friends said to have written the aforesaid two complaints are also not examined in the enquiry. Strangely enough nobody from Mahindrakar Brothers was also examined in support the contents of letter at Ex M-10. Another interesting point to be noted is that neither the said letter at Ex M-10 nor the complaint at Ex M-7 and Ex M-9 borne either the seal and signature of any official or any endorsement on behalf of the bank in receiving those documents. There was no inward diary as such produced to prove that those documents were received by the bank. It is here we find substance in the contention of first party that these are all the documents brought in picture just to support the charges of misconduct levelled against the first party. Therefore, the fact the Bidali paid excess cash of Rs. 300 along with other sum vide Ex M-6 into the hands of the first party and he failed to return the excess amount has not been proved by sufficient and legal evidence except the statement of Mr. Bidali not believable under the aforesaid facts and circumstance brought on record. The statement of MW 6 again on the point has to be discarded as a make believe story. Now the next factor to be

substantiated was with regard to the alleged fact that the first party kept the said amount of Rs. 300/- in the stationery bundle. To prove this fact the management entirely depended upon the statement of Mr. Arun Kumar, MW 5. First of all when we go through the statement of MW 5 in his examination in chief, he gave no details of his alleged statement made before the Branch manager, MW 3 with regard to the incident in question. Now as per his statement at Ex M-5 made before the Branch Manager, he goes to the stationery room to procure a loan form where Mr. Laxman Kamkar, MW 7 was already there. He noticed first party entering the stationery room and then stuffing something in the stationery bundle and immediately he told Mr. Kamkar about that, then, he informed this matter to Prabhu (MW 6) then he goes out of the branch and talks to the branch manager on telephone asking him to come outside and then told him that he noticed first party stuffing something in the stationery bundle. First of all it is to be noted that Mr. Kamkar who is also examined as MW 7 specifically says that he did not observe the workman keeping anything in the bundle. Secondly, when the workman was to be seated in the Manager's cabin during the course of the enquiry, it is highly improbable, to believe that he ventured to enter into the stationery room and in the presence of MW 5 and MW 7 and kept the amount in the stationery bundle. Then, if you go through the report at Ex M-1, the story given by MW 5 gets falsified. As noted above, even as per the statement of Bidali, the two notes of Rs. 50 denomination were kept on the table and two notes of Rs. 100 denomination were kept in table drawer, then a question arises so as how and when the money came into the hands of first party once again to be kept in the stationery bundle, particularly, when there is no evidence brought on record to show that first party had come to his cabin from the cabin of the manager at any point of time before he went to stationery room. As per the very evidence produced, it is also clear that the first party visited the stationery room only at about 10.15 A.M. and the banking hours were from 10.30 A.M. onwards. Therefore, question of first party keeping any amount in the stationery room at about 10.15 A.M. When the banking transactions itself did not commence and he did not receive any amount from any customer much less Mr. Bidali before that never arose. Now coming to the recovery it is the story again devoid of any legal sanctity. Undisputedly, the money in question has not been recovered from the person of the first party. Assuming for a moment it was found in the stationery, then by no stretch of imagination it can be said that it is the first party who had kept that amount in that stationery bundle. The possibility of somebody else even Mr. Bidali at the connivance of others and at the instance of Mahindrakar Brothers to teach some lesson to the first party having some grudge against him for the reported shortage the money keeping the money in the stationery bundle and this being recovered can never be relied out. If the money was to be recovered from the first party or atleast from his table or table drawer then things would

have been different. Now assuming for a moment the story as put forth by the management has got some truth. The next question will be whether the evidence produced in support of the said story could be said to be legal evidence. The whole episode appears to be a stage managed having no legal sanctity followed by any established principle or the procedure known to the law. If really the integrity of the first party was suspected and the complaint/letter to that effect was made by Mahindrakar Brothers at Ex M-10 then, the proper and legal course to be adopted should have been by way of filing complaint, atleast after the incident or by way of investigation done by vigilance cell of the management. Here is the case where the enquiry has been done by the branch manager and it is he who recorded certain statements of the officials of the bank said to be under the instructions of the vigilance cell. The vigilance cell itself could have planted a customer in disguise to test the integrity of the first party making remittance of certain amount to see whether he reports shortage. Here is the case where Mr. Bidali who is said to be the representative of Mahindrakar Brothers plays the role of vigilance and acting upon his statement MW 3 and MW 6 went on making their own investigation and enquiry without following any established principle or procedure known to the law. In fact, as noted above, the recovery itself is highly doubtful apart from the fact that the amount recovered was neither paid back to Bidali nor was produced before the Enquiry Officer. There is no Mahajar of any sort conducted for the alleged recovery. Therefore, whatever evidence is now brought on record to speak to the above said episode is not only insufficient but also has no legal sanctity. It is interesting to note that even after the report at Ex M-1, the vigilance cell does not come into action but adopts a strange procedure in asking MW 3 to record the statements of witnesses and the complainant into the alleged incident. This conduct on the part of the vigilance must tell upon the fact how serious the vigilance cell of the management was about the incident in question if really the incident had taken place. Now, therefore, the findings of the Enquiry Officer based upon the statements of MW 3, MW 5 and MW 6 with regard to the excess payment and its recovery are not based upon sufficient and legal evidence. While recording the finding, the Enquiry Officer also has taken into consideration the statements of certain bank officials including MW 5 and MW 6 before MW 3 stating that when the money was traced in the cabin of the manager, the first party broke down and made his admission to that effect. This observation and the reasoning given by the Enquiry Officer are factually incorrect. The very first report made by the branch manager at Ex M-1 at para 4 makes it abundantly clear that first party was requested by the manager and other to inform about the facts of the case i.e., the fact that he pinched notes, and the first party bluntly refused the allegations stating that he is innocent. Had the first party admitted the guilt or the fact that he had kept amount in the stationery bundle, then MW 3 would have been the first person to make mention of this fact in his

aforesaid report of the incident. Therefore findings of the Enquiry Officer which are to great extent based on the so called the admission of the first party again must be said to be suffering from perversity keeping in view the aforesaid report at Ex M-1. Therefore, it is, in my opinion a clear cut case of no sufficient and legal evidence to substantiate the second charge of misconduct levelled against the first party.

14. It is the case of the first party that he has been victimized for his Union activities and to support his contention, he produced a letter at Ex W-1 written by him to the Management and to the Union Head Office espousing the cause of certain workers. There is no denial of this fact on the part of the management. Even otherwise as seen above when the charge of misconduct has not been substantiated and the manner in which the story has been built up to implicate the first party for the incident in question must be a circumstance sufficient alone to say that he has been victimized in the matter. Therefore for the reasons foregoing, this tribunal has no hesitation in its mind to come to the conclusion that the management, miserably, failed to prove the misconduct levelled under the second charge and that findings of the Enquiry Officer on the said charge suffering from perversity are liable to be quashed. Since findings are held to be not illegal and improper, dismissal order based on that must collapse under its own weight being held to be illegal and vide ab initio. The contention of the management that reference must fail on account of long delay of six years is not to be, entertained in the light of now well settled principle of law that reference cannot be rejected on the score of the delay itself but relief as such could be moulded as laid in a decision rendered on 28-09-2007 by their lordship of Supreme Court in the case of Karan Singh vs. Executive Engineer, Haryana State Marketing Board (Civil Appeal No. 4561/07) [arising out of SLP(C) No. 26379/05]. Therefore, the above said contention of the management must also fail.

15. Now coming to the relief to be granted to the first party when the dismissal order is held to be bad, the only consequence would be his reinstatement into service. Coming to the question of backwages it is to be noted that first party was dismissed from service in the year 1996 whereas he appears to have raised the dispute somewhere in the year 2002 as could be evident from the reference date of dispute to this tribunal. He has not explained as to what actually prevented, in not raising the dispute well within the time much less within reasonable time. Therefore, he cannot be given benefit of backwage for the period between the date of dismissal and the date of reference before this tribunal which is made on 22-02-2002. Now, the question arises as to what extent he should be granted backwages from the said date of reference till the date of his reinstatement. In his examination in chief before this tribunal, he has come to say that he has not been gainfully employed from the date of his dismissal despite making sincere and several efforts to get some employment. There has been no denial of this fact on behalf of the management during the course of his cross-examination, that apart

MW 2 in his affidavit evidence has not only not disputed the above said statement of the first party but also made no positive statement saying that first party has been gainfully employed. That apart above said statement of first party cannot be taken as a gospel truth. It just cannot be believed that he has been idling himself without any employment or earning his livelihood during the period he was out of the service of the management. Therefore, having regard to this factor and the facts and circumstances of the case it appears to me that ends of justice will be met if the first party is granted 50 % of the backwages from the date

of reference i.e., w.e.f. 22-02-2002 till the date of his reinstatement with continuity of service and other consequential benefits. Hence, the following award:

ORDER

The management is directed to reinstate the first party into its service with 50% of the backwages from 22-02-2002 till the date of his reinstatement with continuity of service and other attendant benefits. No orders to cost.

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 6 मई, 2008

का.आ.1067.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिकारियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे दी गई सारणी के स्तंभ (1) में उल्लिखित अधिकारियों को, जो कि सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोजनों के लिए संपदा अधिकारियों के रूप में नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) में विनिर्दिष्ट सरकारी स्थानों की बाबत अपनी अधिकारिता की सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और अधिरोपित कर्तव्यों का पालन करने के लिए नियुक्त करती है :

सारणी

अधिकारी का पदनाम	सरकारी स्थानों के प्रवर्ग तथा अधिकारिता की स्थानीय सीमाएं
1. कल्याण और उपकर आयुक्त, भुवनेश्वर, उड़ीसा	भुवनेश्वर स्थित श्रम कल्याण संगठन, भुवनेश्वर क्षेत्र के प्रशासनिक
2. कंसलटेंट-इन-सर्जरी, केन्द्रीय अस्पताल, जोदा, उड़ीसा ।	नियंत्रणाधीन सभी आवसीय कर्मचारिवृन्द क्वार्टर निर्माण और उक्त क्षेत्र के अधीन कार्यरत उड़ीसा राज्य में सभी
3. उप कल्याण आयुक्त, बारबिल, उड़ीसा ।	अन्य बाह्य परिक्षेत्र के स्थान ।
4. सहायक कल्याण आयुक्त, भुवनेश्वर, उड़ीसा ।	
5. सहायक इंजीनियर, श्रम कल्याण संगठन, भुवनेश्वर, जिला खुरदा (उड़ीसा) ।	

[सं. ए-11013/01/2007-डब्ल्यू-1]

दिनेश सिंह, अवर सचिव

New Delhi, the 6th May, 2008

S.O. 1067.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in Column (1) of the Table below, being Gazetted Officers of the Government, to be the Estate Officers for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed, on the Estate Officer, by or under the said Act within the limits of his jurisdiction in respect of the public premises specified in Column (2) of the said Table:

TABLE

Designation of the Officers	Categories of public premises and local limits of jurisdiction
1. Welfare and Cess Commissioner, Bhubaneswar, Orissa.	All building residential Staff Quarters and properties under the administrative control of the Labour Welfare Organisation, Bhubaneswar Region located at Bhubaneswar and all other localities outside places in Orissa State functioning under the said Region.
2. Consultant-in-Surgery, Central Hospital, Joda, Orissa.	
3. Deputy Welfare Commissioner, Barbil, Orissa.	
4. Assistant Welfare Commissioner, Bhubaneswar, Orissa.	
5. Assistant Engineer, Labour Welfare Organisation Bhubaneswar, District Khurda, (Orissa).	

[No. A-11013/01/2007-W.I]

DINESH SINGH, Under Secy.